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CONFIDENTIAL.

(7904.)

PART XIII.

FURTHER CORRESPONDENCE

RESPECTING THE

BOUNDARY

BETWEEN THE

BRITISH POSSESSIONS IN NORTH AMERICA

AND THE TERRITORY OF ALASKA

1901.

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CONFIDENTIAL

Further Correspondence respecting the Boundary between the
British Possessions in North America and the Territory
of Alaska.

PART XIII.

No. 1.

Colonial Office to Foreign Office.—(Received February 15.)

THE Under-Secretary of State for the Colonies presents his compliments to the Under-Secretary of State for Foreign Affairs, and is directed by the Secretary of State to transmit, for the information of the Marquess of Lansdowne, with reference to the letter from the Colonial Department of the 24th September, 1900, a copy of a despatch from the Governor-General of Canada, with inclosures, on the subject of the Petition of the Chilkat Indians with respect to the provisional Alaskan boundary.

Downing Street, February 14, 1901.

Inclosure 1 in No. 1.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Confidential.)

Sir,

Government House, Ottawa, January 11, 1901.

WITH reference to your despatch of the 28th August last, marked Confidential, regarding the Petition of the Chilkat Indians with respect to the provisional Alaskan boundary, I have the honour to forward herewith, for your information, a copy of a despatch which I have addressed to Her Majesty's Ambassador to the United States, communicating the observations of my Ministers upon the proposal of the United States' Government for allowing these Indians unrestricted freedom of passage across the provisional boundary-line.

Copies of Lord Pauncefote's despatches conveying particulars of the United States' proposal I have the honour also to inclose herewith.

I have, &c.
(Signed) MINTO.

Inclosure 2 in No. 1.

Governor-General the Earl of Minto to Lord Pauncefote.

My Lord,

Government House, Ottawa, January 11, 1901.

MY Ministers have had under consideration your Excellency's despatches of the 14th September last and of the 16th October last, relative to an arrangement proposed by the United States' Government for continuing to the Chilkat Indians on both sides of the provisional Alaska boundary the privileges heretofore enjoyed by them—as well as a despatch from the Secretary of State for the Colonies, marked Confidential, of the 28th August last; and I have the honour to inclose, for your Excellency's information, a copy of an approved Minute of the Privy Council for Canada to which copy of

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Mr. Chamberlain's despatch is attached, embodying the observations of the Government upon this proposal.

Your Excellency will observe that my Minister of the Interior points out that the United States' proposal is based upon the assumption that the Indians in question have not acquired a domiciliary status on either side of the boundary-line, while the fact appears to be that on the United States' side of the line they are established as United States' subjects, Ministers therefore cannot see their way, consistently with the due enforcement of the Customs laws, to concede to these Indians an unrestricted right of free passage across the boundary-line; but they are willing to instruct Customs officers in the district referred to to pass free the canoes used by Indians, their peltries and other usual effects, and to interpret this instruction in as liberal a manner as the necessity of preventing frauds upon the revenue will permit.

Your Excellency will observe, further, that this Government would not bind itself to continue this privilege for a longer time than two years from the present date, and suggests that a reciprocal concession as regards Canadian Indians be made by the United States' Government.

I have, &c.
(Signed) MINTO.

Inclosure 3 in No. 1.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 5th January, 1901.

THE Committee of the Privy Council have had under consideration a Colonial Office despatch, hereto annexed, dated August 1900, and marked Confidential; also two other despatches, hereto attached, dated respectively the 4th September, 1900, and the 16th October, 1900, from Her Majesty's Ambassador to the United States, all covering copies of correspondence with the United States' Department of State relative to the Petition of the Klukwan Indians, that they be allowed unrestricted passage over the provisional boundary-line in the Chilkat region.

The Minister of the Interior, to whom the said matter was referred, observes that the remark of the Acting Secretary of State of the United States, in his letter of the 1st September to Her Majesty's Ambassador to the United States, that he sees no reason under the "rights and privileges" clause of the *modus vivendi* why the Chilkat Indians should be more rigidly treated in so far as relates to matters of revenue than they are at present, is based upon the assumption that these Indians are migratory and have not acquired a domiciliary status on either side of the line, whereas the facts appear to be that they are United States' subjects living in permanent houses on the United States' side of the provisional line.

The Minister states that, in consequence of this, there could be no valid claim by these Indians as of right under the *modus vivendi* of October 1899 for different treatment from other persons found in the provisional jurisdiction of the United States, and the clause of the *modus vivendi* relating to rights and privileges does not release such persons from the operation of the Customs Laws, seeing that the *modus vivendi* presumes, by its specific relaxation of the Customs Laws of Canada in certain cases, that they will remain in force in general.

That, moreover, the granting of an unrestricted right to Indians of free passage across the line would inevitably result in the abuse of the privilege by white men to the detriment of the revenue.

Although the trade with the interior by the Chilkat River route is now of too small consequence to render it a matter of importance whether duties are collected or not, yet there are prospects of a great increase in that respect in a short time.

The Minister having in view the possible hardship to individual Indians which might be caused by a rigid enforcement of the Customs Laws and the desirability of securing harmonious acquiescence in the administration of the law, recommends (following nearly a former provision of the United States' Tariff Law) that the Customs officers in that district be instructed to pass free the canoes in use by Indians and peltries and other of their usual effects (not being goods in bales or other packages unusual among Indians engaged in hunting or fishing) and that they be further instructed to give this provision as liberal a construction as possible consistent with the prevention of fraud upon the revenue.

The Committee advise that your Excellency be moved to transmit the substance of this Minute to Her Majesty's Ambassador to the United States, as representing the views and intentions of the Government of Canada, with a proviso that this Government does not bind itself to continue this privilege to Indians for a longer time than two years from the present date, and suggesting that the United States make a reciprocal concession as regards Canadian Indians.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

Inclosure 4 in No. 1.

Lord Pauncefote to Deputy Governor-General Taschereau.

Sir, Newport, Rhode Island, September 4, 1900.
ON receipt of your despatch of the 27th July, I addressed a note to the United States' Government respecting the complaint of the Chilkat Indians that the effect of the Alaska *modus vivendi* will be to restrict their trade and avocations.

I have now the honour to inclose copy of the reply I have received from the Acting Secretary of State, who says that he is prepared to enter into an arrangement whereby the Indians on both sides of the provisional line shall receive the same treatment and enjoy the same privileges as heretofore.

I should be much obliged if you would inform me whether such an arrangement would meet the views of the Canadian Government.

I have, &c.
(Signed) PAUNCEFOTE.

Inclosure 5 in No. 1.

Mr. Adee to Lord Pauncefote.

Excellency, Department of State, Washington, September 1, 1900.
I HAVE the honour to acknowledge the receipt of your note of July last, with reference to the effect of the Alaskan *modus vivendi* on the privileges heretofore enjoyed by the Chilkat Indians.

The *modus vivendi* provides "that the citizens or subjects of either Power, found by this arrangement within the temporary jurisdiction of the other shall suffer no diminution of the rights and privileges which they now enjoy." Under this provision no reason is perceived why the Chilkat Indians should be more rigidly treated in so far as relates to matters of revenue than they are at present, at least not until the boundary-line shall have been permanently established, and the migratory Indians acquire some domiciliary status on either side of the line.

After consultation with the Secretary of the Treasury, I shall be pleased to effect with you an arrangement whereby the Indians on both sides of the provisional line shall receive the same treatment and enjoy the same privileges as heretofore. Such an arrangement could be effected by mere exchange of notes, and, while entirely within the purview of the existing *modus*, would go far to meet the views expressed in your note under acknowledgment.

I have, &c.
(Signed) A. A. ADEE, Acting Secretary.

Inclosure 6 in No. 1.

Lord Pauncefote to Governor-General the Earl of Minto.

My Lord, Newport, Rhode Island, October 16, 1900.
ON the 4th ultimo I had the honour to address to the Honourable H. E. Taschereau a despatch forwarding a copy of a note which I had received from the Acting Secretary of State of the United States, expressing the willingness of his Government to enter into an arrangement whereby the Indians on both sides of the provisional boundary-line between British territory and Alaska should receive the same treatment and enjoy the same privileges as heretofore, and to inquire whether this arrangement would meet the views of the Canadian Government.

I have now the honour to inform your Excellency that I have received a despatch from the Marquess of Salisbury, to whom a copy of Mr. Adee's note was also forwarded, instructing me, with the concurrence of the Secretary of State for the Colonies, to proceed with the proposed arrangement in the event of its meeting with the approval of the Dominion Government.

I have accordingly the honour to request your Excellency to favour me with your wishes on the subject at your earliest convenience.

I have, &c.
(Signed) PAUNCEFOTE.

Inclosure 7 in No. 1.

Lord Pauncefote to Deputy Governor-General Taschereau.

Sir, *Newport, Rhode Island, September 4, 1900.*
ON receipt of your despatch of the 27th July, I addressed a note to the United States' Government respecting the complaint of the Chilkat Indians that the effect of the Alaskan *modus vivendi* will be to restrict their trade and avocations.

I have now the honour to inclose copy of the reply I have received from the Acting Secretary of State, who says that he is prepared to enter into an arrangement whereby the Indians on both sides of the provisional line shall receive the same treatment and enjoy the same privileges as heretofore.

I should be much obliged if you would inform me whether such an arrangement would meet the views of the Canadian Government.

I have, &c.
(Signed) PAUNCEFOTE.

Inclosure 8 in No. 1.

Mr. Adee to Lord Pauncefote.

Excellency, *Department of State, Washington, September 1, 1900.*
I HAVE the honour to acknowledge the receipt of your note of the 31st July last, with reference to the effect of the Alaskan *modus vivendi* on the privileges heretofore enjoyed by the Chilkat Indians. The *modus vivendi* provides "that the citizens or subjects of either Power, found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy." Under this provision, no reason is perceived why the Chilkat Indians should be more rigidly treated, in so far as relates to matters of revenue, than they are at present; at least, not until the boundary-line shall have been permanently established, and the migratory Indians acquire some domiciliary status on either side of the line.

After consultation with the Secretary of the Treasury, I shall be pleased to effect with you an arrangement whereby the Indians on both sides of the provisional line shall receive the same treatment and enjoy the same privileges as heretofore. Such an arrangement would be effected by mere exchange of notes, and, while entirely within the purview of the existing *modus vivendi*, would go far to meet the views expressed in your note under acknowledgment.

I have, &c.
(Signed) A. A. ADEE, Acting Secretary.

Inclosure 9 in No. 1.

Lord Pauncefote to Governor-General the Earl of Minto.

My Lord, *Newport, Rhode Island, October 16, 1900.*
ON the 4th ultimo I had the honour to address to the Honourable H. E. Taschereau a despatch forwarding a copy of a note which I had received from the Acting Secretary of State of the United States expressing the willingness of his Government to enter into an arrangement whereby the Indians on both sides of the provisional boundary-line between British territory and Alaska should receive the same treatment and enjoy the same privileges as heretofore, and to inquire whether this arrangement would meet the views of the Canadian Government.

I have now the honour to inform your Excellency that I have received a despatch from the Marquess of Salisbury, to whom a copy of Mr. Adce's note was also forwarded, instructing me, with the concurrence of the Secretary of State for the Colonies, to proceed with the proposed arrangement in the event of its meeting with the approval of the Dominion Government.

I have accordingly the honour to request your Excellency to favour me with your wishes on the subject at your earliest convenience.

I have, &c.
(Signed) PAUNCEFOTE.

No. 2.

Colonial Office to Foreign Office.—(Received March 8.)

(Confidential.)

Sir,
Downing Street, March 7, 1901.
I AM directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Lansdowne, copy of a despatch from the Governor-General of Canada, forwarding copy of an approved Minute of the Dominion Privy Council containing the observations of his Ministers on the note from the United States' Ambassador at this Court, respecting the Alaska boundary question, of which a copy was inclosed in your letter of the 27th January, 1900.

2. The Minute of the Dominion Privy Council will supply Lord Lansdowne with the material for an answer to Mr. Choate's note.

3. It is requested that the map inclosed in Lord Minto's despatch, which is sent in original, may be returned when done with.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 2.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Secret.)

Sir,
Government House, Ottawa, December 18, 1900.
MY Ministers have had under consideration your Secret despatch of the 12th February last, inclosing copy of a despatch from the United States' Ambassador at the Court of St. James' as to the terms on which the Alaska boundary question should be referred to arbitration, and I have now the honour to forward herewith a copy of an approved Minute of the Privy Council submitting a Memorandum from my Minister of Marine and Fisheries expressing the views of the Government in regard to this matter.

I have, &c.
(Signed) MINTO.

Inclosure 2 in No. 2.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 6th December, 1900.

THE Committee of the Privy Council have had under consideration a despatch, hereto annexed, marked Secret, dated the 12th February, 1900, from the Right Honourable Mr. Chamberlain, Secretary of State for the Colonies, transmitting copy of a note from the United States' Ambassador at the Court of St. James', as to the terms on which the Alaska boundary question should be referred to arbitration.

The Committee have also had under consideration a Report, hereto attached, upon the above-mentioned despatch, by the Honourable Sir Louis Davies, to whom the matter i question was referred.

The Committee concur in the said Report of Sir Louis Davies and advise that your Excellency be moved to transmit a certified copy of this Minute, and the said annexed Report to the Right Honourable Her Majesty's Principal Secretary of State for the Colonies.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

To his Excellency the Governor-General in Council :

THE Undersigned, to whom was referred the despatch of the United States' Ambassador to the Marquess of Salisbury, dated the 22nd January, 1900, has the honour to express the satisfaction with which your Excellency's advisers have received Mr. Choate's assurance that his Government is not averse to a reference of the main difference between Great Britain and the United States in respect of the Alaska boundary to the adjudication of an independent Tribunal, but rather contemplates the probability of such a mode of settlement of this long-pending controversy. The Undersigned concurs with Mr. Choate in thinking that what the Ambassador regards as the paramount issue, namely, whether the line should be drawn across inlets or round their heads, can best be decided by this means. He does not, however, share Mr. Choate's view that the particular course which the line is to take when the above question has been settled, can be satisfactorily determined by a joint survey. The Undersigned would point out that a joint survey has already been made, and that if the differences between the two Governments could not be settled by the aid of the very complete maps thereby afforded, he does not see much prospect of a fresh survey achieving a more definite result. It appears to the Undersigned that what Mr. Choate terms "minor or secondary" though "highly important" questions, namely, the exact location of the boundary-line and its precise distance from the coast, are analogous to those involved in the main issue, and can only be determined by a similar process. To illustrate his meaning the Undersigned would suppose that the question of inlets has been decided, and a joint survey dispatched to lay down the boundary in conformity with the provisions of the Treaty of 1825, which prescribes that the line shall follow the summit of the mountains situated parallel to the coast. The British surveyors would naturally interpret this to mean the summit of the mountains nearest the coast, while it is possible that the United States' surveyors might contend for the highest range. How could the point be decided? Yet upon the decision would depend the possession of part of the town of Skagway, even supposing the ownership of the heads of inlets was decided adversely to the British contention. Again, if there should be a break in the mountain range which it is decided to follow, should the line cross the break parallel to the coast or should it run at right angles back from the coast until the 10-league limit is reached? Controversies over these points, and others of a similar character, the least of which might turn out to be of far-reaching importance, would, it is to be feared, arise, and it is scarcely to be expected that surveyors in the field could reach an agreement upon them, nor, indeed, would it be expedient to allow them such latitude. It appears to the Undersigned that Mr. Choate's observations with regard to the question relative to the heads of inlets, namely, that of the interpretations regarding it which have been presented by Great Britain and the United States respectively, "one or the other is right, and can, and should be ascertained and determined so to be to the exclusion of the other," are equally applicable to many occasions of difference which surveyors sent to lay down the boundary would encounter. For these reasons the Undersigned is of opinion that all questions which depend for their solution upon the interpretation of the Treaty should be simultaneously referred to arbitration, to determine the true meaning of that instrument, and this, not merely with regard to the Lynn Canal or any other particular point, but in respect of the whole line, throughout its entire length, from the southernmost point of Prince of Wales Island to Mount St. Elias. What is desired by both Governments is the termination of this dispute, and in no other way, in the opinion of the Undersigned, can it be satisfactorily and permanently settled.

Mr. Choate's objection to the application of the Venezuela Treaty to the adjustment of the present controversy appears to be directed against the provision for compromise which that arrangement affords, and the latitude given to the Tribunal constituted under it. The Undersigned agrees with the view expressed in Lord Salisbury's despatch of the 14th October, 1899, that the circumstances of the Alaska boundary controversy are such as to warrant an unqualified submission to an impartial Tribunal, and it was solely with the desire to meet the objections of the United States' Representatives that the British members of the Joint High Commission of 1898-99 proposed to allow that continued adverse possession should be recognized and full regard had to the equities of the case. With this object in view it appeared to them that the Venezuela Treaty offered a convenient and suitable precedent. Accordingly they proposed arbitration on those lines, but the Canadian Government is not wedded to a particular formula, and is prepared to consider any reasonable modifications of the rules suggested (not inconsistent with finality of decision) which the United States may consider the special circumstances of the case to call for. Towards such questions as the composition of the Tribunal and its

organization, as well as the terms of reference, your Excellency's Ministers, with the qualification above mentioned, have adopted no fixed attitude, nor have they declined to reconsider the original proposal of the British side of the Joint High Commission, which, at the same time they conceive to be eminently fair to the United States.

But while the Canadian Government is thus prepared to acquiesce in every concession compatible with the maintenance of its self-respect, it must exclude from that category the stipulation contained in the last paragraph of Mr. Choate's letter, to the effect that all settlements made by American citizens in the disputed territory under the authority of their Government up to a very recent period shall remain the property of the United States. Mr. Choate has all along taken the ground that the only material question in this controversy is that which involves the ownership of the heads of inlets in general, and of the Lynn Canal in particular. That Canal derives its present importance from the fact of its forming the natural gateway to the gold-bearing regions of the Canadian interior, which are accessible by sea in those latitudes through the ports of Dyea, Skagway, and Pyramid harbour. The valleys in the rear of these ports are the only known avenues of approach to the interior which come down to the Lynn Canal, and are consequently the measure of its value. Their ownership must therefore constitute, in the view of the United States' Government, the chief object of the arbitration. Now, there cannot be a doubt that the proposal of the United States' Plenipotentiaries at the present meeting of the Joint High Commission, here renewed by Mr. Choate, to except from the "perils of any arbitration all towns or settlements on tide-water settled under the authority of the United States and under the jurisdiction of the United States at the date of this Treaty" was put forward with the object of securing Dyea, Skagway, and Pyramid harbour, for they are the only settlements on tide-water leading to the interior that can possibly be embraced by the definition. So Mr. Choate's reservation amounts to this: that the United States' Government will agree to arbitration only on condition that the principal objects of the reference shall be theirs in any event, and that Great Britain will so covenant before the parties go into Court. Your Excellency's advisers cannot doubt that Her Majesty's Government will never consent to any such arrangement.

This extraordinary proposal is based on the assumption that the settlements at the head of the Lynn Canal were established under the authority of the United States prior to the announcement of any claim to the territory in question on the part of Great Britain. So confident is Mr. Choate of the soundness of this contention that several times throughout his despatch he emphasizes it by expressly including Canada, as distinct from the mother-country, in his charge of having said or done nothing prior to 1898 to indicate her claim. This assertion has been dealt with in a Memorandum prepared by the Undersigned a few months ago, and printed confidentially for the use of the Colonial Office. It would serve no good purpose to recapitulate here in detail the proofs therein advanced tending to show that for the last thirty years the Canadian Government omitted no opportunity of publicly asserting its claim to the territory in dispute. It will be within your Excellency's recollection that ten years prior to the meeting of the Joint High Commission of 1898 the High Commissioner for Canada, at the instance of Sir John Macdonald, then Prime Minister, lodged a protest through the Secretary of State for the Colonies against a rumoured attempt on the part of the United States' Government to exercise sovereignty in the vicinity of what is now the town of Skagway, on the ground that the territory in question formed part of Her Majesty's dominions. The Undersigned is aware that the force of this protest was to some extent weakened in the course of its transmission to the United States' Government, but he submits that the clearness and vigour of the language employed to affirm the "well based contention" on the part of Canada that the heads of inlets "are within our territory," and consequently form "part of Her Majesty's dominions," leave no doubt as to what the Canadian Government's contention was on this point in the summer of 1898.

Mr. Choate suggests that too much weight has been given to Mr. Dawson's letter of the 7th February, 1898, laid before the Fisheries Commission of that year, in which the same contention is advanced. He argues that the meetings between that gentleman and Professor Dall were wholly informal; that neither possessed any delegated authority whatever, and that their opinions could not be held to commit anybody but themselves.

The Undersigned submits that while it is true the conferences between Messrs. Dawson and Dall were informal, these gentlemen were experts specially selected by their respective Governments, and he maintains that their views must therefore be held to be those of the Government which they represented. That this was so understood at the time is evident from the map (No. 16) which accompanies the Reports of both experts submitted to Congress by President Cleveland on the 2nd March, 1899. That map is a reproduction of one prepared in Ottawa for the purposes of the Conference of 1897-98.

As originally published it showed no boundary-lines, but upon a few copies lines were drawn in ink by Dr. Dawson, showing (1) a boundary-line as given on the United States' Coast Survey Map of Alaska, 1884; (2) a boundary-line approximately following the summits of mountains parallel to the coast, in presumed conformity with the text of the Convention of 1825, as understood by the Canadian Government; (3) one of the conventional lines discussed during the conferences and referred to in the printed correspondence between Dr. Dawson and Sir C. Tupper, which the latter laid before the Commission. It was not possible to draw the second conventional line, as this depended upon geographical details not determined at the time. A note upon the face of the map states that the line from the United States' Coast Survey Map "disregards both the Treaty reference to mountains and that to the ocean coast." A copy of the lithographed map, with the lines and notes above referred to was supplied to Professor Dall, and is reproduced in *fac-simile* as Map No. 16 above referred to.

That that line following the mountains parallel to the coast, crossing all the larger inlets, must at the time have been accepted as embodying the Canadian view of the meaning of the Treaty of 1825 is shown by the addition by the United States' authorities, to the *fac-simile* (at the top and outside the border of the map) of the words "Dawson's Canadian Map, 1887, showing conventional lines *proposed by Canada*." A copy of this map as originally prepared, and also a copy with Dr. Dawson's additions, both of which were published by the United States' Government and submitted to Congress, are appended to this Memorandum.

Mr. Choate says of the meetings between Messrs. Dawson and Dall, that they were not held during the sittings of the Joint High Commission of 1888. An examination of the Protocols of this Commission discloses that on the 9th January, 1888, Mr. Chamberlain suggested that Dr. Dawson and Professor Dall should meet and endeavour to agree upon some definite suggestions for the consideration of the Conference. On the 23rd January, Mr. Bayard concurred in this suggestion, and on the 30th it was arranged that Dr. Dawson should be summoned by telegraph. On the 2nd February Dr. Chamberlain announced that Dr. Dawson had arrived at Washington, and Mr. Bayard informed the Conference that the necessary arrangements would be made at once for him to meet Professor Dall. On the 7th February Mr. Chamberlain reported to the Commission that Dr. Dawson and Professor Dall had not made any progress on the question of the Alaska boundary. The Commission sat on the 2nd, 3rd, 6th, and 7th February. Obviously, therefore, Mr. Choate is under a misapprehension when he states that the conference between Messrs. Dall and Dawson were not held during the sittings of the Joint High Commission. Mr. Choate's inference that Sir C. Tupper dissociates himself from Dr. Dawson, because in the former's note of transmission he refers to the latter's views as "his," i.e. Dr. Dawson's, "own," appears to the Undersigned to be based upon a misconception of Sir C. Tupper's meaning. Bearing in mind that on the same day on which Dr. Dawson's letter was written, Mr. Chamberlain reported to the Conference that the two experts had failed to come to any agreement it is not surprising that Sir C. Tupper should allude to Dr. Dawson's views as "his own," meaning thereby, his own, not as distinct from those of the Government which he was there to represent, but from those of his fellow-expert with whom he could not reach any agreement. They were his individual views in the sense that they were not shared by Professor Dall. These views were known to the Government of which Sir C. Tupper was a member, before Dr. Dawson was summoned to Washington. If the Canadian Government was not in accord with them it is scarcely likely that he would have been selected to confer with the American expert, nor is it probable that Sir C. Tupper would have placed them before Mr. Bayard without, at any rate, some distinct and explicit disavowal of responsibility for them. The suggestion that Sir C. Tupper was in no mood to adopt General Cameron's opinions on the subject of the Alaska boundary, is the Undersigned is in a position to assure your Excellency, quite at variance with the fact. The Undersigned ventures to remind Her Majesty's Government that it was at the instance of Sir C. Tupper, at the time High Commissioner for Canada, that General Cameron was selected by the Secretary of State for the Colonies to investigate and report upon this question of the Alaska boundary. That Sir C. Tupper, in the year 1888, attached great weight to General Cameron's views on the subject of the Alaska boundary, and that he entirely concurred in protesting against any attempt on the part of the United States to disregard Canada's claim to the heads of inlets, is apparent from his letter to the Colonial Minister dated the 1st August, 1888, in which he fortified the protest of the Canadian Government by a Memorandum from General Cameron's pen.

The Undersigned would invite the attention of Her Majesty's Government to the message of the President of the United States transmitting these Reports and Maps of Dr. Dawson to Congress, and to the Memorandum of his Secretary of State which

accompanied them, in which Mr. Bayard expresses the opinion that these documents are "of value as bearing upon a subject of great international importance, and should be put in shape for public information."

The Undersigned submits that in thus giving effect to this suggestion the United States publicly acquainted its people of Canada's claim to the heads of the inlets more than eight years before anything in the nature of settlement was begun at the head of the Lynn Canal, for, as the Undersigned has already shown in his Memorandum above referred to, beyond a few trifling acts of occupation on the part of private individuals, at periods separated by considerable intervals of time, no settlement was attempted in those localities until the mining rush to the Klondike in the spring of 1897. In the light of these circumstances Her Majesty's Government will perceive how impossible it would be for Canada to assent to any condition similar to that put forward by Mr. Choate in his concluding observations.

The Undersigned confesses to some surprise at Mr. Choate's statement to the effect that the United States' Government is not aware that at the Conference held in Washington in February 1892, the Canadian Ministers proposed, "that a reference to some impartial authority be made by Great Britain and the United States for the purpose of ascertaining and deciding finally the true boundary, regard being had to the Treaties relating to the subject, and likewise to the case which may be presented by either Government, and to the testimony which may be adduced as to the physical features and conditions of that country."

The Minutes of the proceedings of this Conference, signed by the Canadian Delegates and concurred in by Her Majesty's Minister to the United States, confirm the accuracy of this statement. These Minutes, which were published by order of the Canadian Parliament in the Sessions of 1892 and 1893 also record that on the 12th February, 1892, "the various contentions relating to the boundary were then explained," thereby indicating that the existence of a divergence between the views of the respective Governments as to the true meaning of the Treaty was recognized at that date, and that each was acquainted with the others claim.

In submitting these views, for the information of Her Majesty's Government, the Undersigned has the honour to remind your Excellency that in the Memorandum prepared by him in October, 1899, for the use of the Colonial Office, to which he has already referred, he detailed all the facts in connection with this controversy at considerable length, and appended thereto such official documents as in his opinion were necessary to the full understanding of this somewhat complicated subject.

The supplementary observations herewith offered are for the further elucidation of the Canadian contention, and in disproof of the allegation that neither the Imperial nor the Canadian Government adopted or put forward the British claim to the heads of the inlets "until after the Protocol of the 30th May, 1898."

All of which is respectfully submitted.

(Signed)

L. H. DAVIES.

Ottawa, November 20, 1900.

No. 3.

Lord Pauncefoot to the Marquess of Lansdowne.—(Received April 11.)

(No. 115.)

My Lord,

Washington, April 2, 1901.

I HAVE the honour to transmit to your Lordship herewith copy of a note from Mr. Hay regarding a report that has gained credence among the American miners on Glacier Creek, in the Porcupine District, Alaska, that it is the purpose of the Canadian Government in that locality to extinguish American claims where the holders have failed to record locations with the Canadian Court recently established for the purpose of receiving and entering records.

The State Department, while recognizing the convenience and propriety of making provision for the Canadian registry of claims previously located under American law while the territory was under American jurisdiction, are of opinion that forfeiture for failure to so record would be opposed to the intention of the Arrangement agreed upon between the two Governments under the *modus vivendi* of 1899, in which it is stated that "the subjects or citizens of either Power found by this Arrangement

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within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy."

I have the honour to draw your Lordship's attention to Mr. Hay's suggestion that a list or statement of all claims filed in the proper agencies of the United States should be prepared by the custodians of the records and duly certified for communication to His Majesty's Government, with the understanding that the claims so made of record should have force and effect as completely as though accorded independently in a British office of record.

I have forwarded a copy of Mr. Hay's note to the Governor-General of Canada.

I have, &c.
(Signed) PAUNCEFOTE.

Inclosure in No. 3.

Mr. Hay to Lord Pauncefote.

Excellency,

Department of State, Washington, March 30, 1901.

THE Secretary of War brings to my notice a report which has gained credence and created serious apprehension among the American miners on Glacier Creek, in the Porcupine District, Alaska, that it is the purpose of the Canadian Government in that locality to extinguish American claims where the holders have failed to record locations with the Canadian Court recently established for the purpose of receiving and entering records.

Glacier Creek, in the Porcupine District, is a part of the section included provisionally under Canadian administration in virtue of the temporary boundary established by the *modus vivendi* of 1899. It has been extensively settled by American miners prior to the signing of that Agreement, and the locations were made under the laws of United States in force at the time. Having thus complied with the law, the miners were, it seems, advised that they were secure in the possession of their claims under the terms of the *modus vivendi*, without further action, and few, if any, claims have been recorded in the Canadian Court.

The Department recognizes the convenience and propriety of provision for the Canadian registry of claims previously located under American law, while the territory was under American jurisdiction; but it is equally clear that forfeiture for failure to so record would be opposed to the intent of the Arrangement agreed upon between the two Governments in establishing the temporary boundary, and the execution of which was itself the cause of a change of jurisdiction in this region. In that Agreement it is stated "that the citizens or subjects of either Power, found by this Arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy."

The two Governments having thus expressly provided for safe-guarding the interests of their citizens or subjects transferred by the Agreement to the provisional jurisdiction of the other, I venture to express my earnest hope and expectation that the Canadian Government will not proceed rigorously against American miners who—having located on Glacier or other creeks under American laws prior to the establishment in that territory of Canadian jurisdiction—have, through ignorance of the circumstances, or under bad advice, neglected to protect their interests under the new status by again registering under Canadian law.

To the end of protecting these interests, it may be suggested that the purpose in view in the conclusion of the *modus vivendi* would be fully accomplished were a list or statement of all claims filed in the proper agencies of the United States in that quarter prepared by the custodians of the records and duly certified for communication to your Government, with the understanding that the claims so made of record should have force and effect as completely as though recorded independently in a British office of record.

I have, &c.
(Signed) JOHN HAY.

No. 4.

Foreign Office to Colonial Office.

Sir, *Foreign Office, April 12, 1901.*
 I AM directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before the Secretary of State for the Colonies, the accompanying copy of a despatch respecting Canadian registration of American claims in Alaska.*
 I am, &c.
 (Signed) F. H. VILLIERS.

No. 5.

Lord Pouncefote to the Marquess of Lansdowne.—(Received May 20.)

(Private.) *Washington, May 10, 1901.*
 Dear Lord Lansdowne,
 IN continuation of my private letter of the 25th ultimo, I now beg to transmit to your Lordship Mr. Hay's scheme for the settlement of the Alaskan boundary dispute, and of most of the Canadian questions discussed, but left open by the Joint High Commission of 1898-99.
 The scheme is presented in the form of two drafts of Treaties, the one providing for the settlement of the boundary dispute by arbitration, and the other containing proposed Articles for the adjustment of eleven questions of great practical importance, the determination of which would, no doubt, remove many causes of friction between Canada and the United States.
 There is one notable exception in the list of subjects at the commencement of the draft, and that is the old question of the fisheries off the Atlantic Coast. Both of these important drafts are only tentative, and submitted privately.
 I will not trouble your Lordship at present with any criticisms upon them, but I venture to think that there will be no insuperable difficulty in their amendment so as to meet the reasonable wishes of His Majesty's Government, and that they offer a more hopeful prospect of successful negotiation than has yet presented itself.
 I have, &c.
 (Signed) PAUNCEFOTE.

Inclosure 1 in No. 5.

DRAFT ARBITRATION TREATY.

Convention between the United States of America and the United Kingdom of Great Britain and Ireland for determining by Arbitration the true Treaty-boundary between the Territory of Alaska and the British Possessions in North America.

THE United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, equally desirous for the friendly and final adjustment of the differences which exist between them in respect to the true meaning and application of certain clauses of the Convention between Great Britain and Russia, signed the 16th (28th) February, 1825, which clauses relate to the delimitation of the boundary-line between the British possessions in North America and the territory of Alaska, now a possession of the United States, in virtue of the cession thereof to the United States by Russia by the Convention between the last-named Powers, signed at Washington, the 30th March, 1867, wherein said clauses are embodied as defining the said territory so ceded, have resolved to provide for the submission of the questions as hereinafter stated to arbitration, and to that end have appointed their respective Plenipotentiaries as follows:—

The President of the United States of America, the Honourable John Hay, Secretary of State of the United States; and

Her Britannic Majesty, the Right Honourable Lord Pauncefoot, G.C.B., G.C.M.G.,
Her Britannic Majesty's Ambassador Extraordinary and Plenipotentiary :

Who, after an exchange of their full powers, which were found to be in good and due form, have agreed upon the following Articles:—

ARTICLE I.

An Arbitral Tribunal shall be immediately appointed to consider and decide the questions set forth in Article IV of this Convention. The said Tribunal shall consist of six impartial jurists of repute, each of whom shall before entering upon his duties subscribe an oath that he will impartially consider the arguments and evidence presented to the Tribunal and decide thereupon according to his true judgment. Three members of the Tribunal shall be appointed by the President of the United States and three by Her Britannic Majesty. All questions considered by the Tribunal, including the final Award, shall be decided by a majority of all the Arbitrators.

In case of the refusal to act, or of the death, incapacity, or abstention from service of any of the persons so appointed, another impartial jurist of repute shall be forthwith appointed in his place by the same authority which appointed his predecessor.

The Arbitrators may appoint a Secretary, and such other officers as may be requisite to assist them, and may employ scientific experts, if found to be necessary; fixing a reasonable compensation for such officers and such experts. The Tribunal shall keep an accurate record of all its proceedings.

Each of the High Contracting Parties shall make compensation for the services of the Arbitrators of its own appointment, and of any Agent, Counsel, or other person employed in its behalf, and shall pay all costs incurred in the preparation of its Case. All expenses reasonably incurred by the Tribunal in the performance of its duties shall be paid by the respective Governments in equal moieties.

The Tribunal may, subject to the provisions of this Convention, establish all proper rules for the regulation of its proceedings.

ARTICLE II.

Each of the High Contracting Parties shall also name one person to attend the Tribunal as its Agent to represent it generally in all matters connected with the arbitration.

The written or printed Case of each of the two Parties, accompanied by the documents, the official correspondence, and all other evidence in writing or print on which each Party relies, shall be delivered in duplicate to each of the Arbitrators, and to the Agent of the other Party, as soon as may be after the organization of the Tribunal, but within a period not exceeding months from the date of the exchange of ratifications of this Treaty.

Within four months after the delivery on both sides of the written or printed Case, either Party may, in like manner, deliver in duplicate to each of the Arbitrators, and to the Agent of the other Party, a Counter-Case, and additional documents, correspondence, and evidence in reply to the Case, documents, correspondence, and evidence so presented by the other Party. The Tribunal may, however, extend this last-mentioned period when, in their judgment, it becomes necessary by reason of special difficulties which may arise in the procuring of such additional papers and evidence.

If, in the case submitted to the Tribunal, either Party shall have specified or referred to any report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party shall demand it, to furnish to the Party applying for it a duly certified copy thereof; and either Party may call upon the other, through the Tribunal, to produce the original or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Arbitrators may require.

Each Party may present to the Tribunal all pertinent evidence, documentary, historical, geographical, or topographical, including maps and charts, in its possession or control which it may deem applicable to the rightful decision of the questions submitted; and if it appears to the Tribunal that there is evidence pertinent to the case in the possession of either Party, and which has not been produced, the Tribunal

may in its discretion order the production of the same by the Party having control thereof.

It shall be the duty of each Party through its Agent or Counsel, within two months from the expiration of the time limited for the delivery of the Counter-Case on both sides, to deliver in duplicate to each of the said Arbitrators and to the Agent of the other Party a written or printed Argument showing the points and referring to the evidence upon which his Government relies. The Tribunal may, if they shall deem further elucidation with regard to any point necessary, require from either Party a written, printed, or oral Statement or Argument upon the point; but in such case the other Party shall have the right to reply thereto.

ARTICLE III.

It is agreed by the High Contracting Parties that the Arbitral Tribunal shall consider in the settlement of the questions submitted to its decision the Conventions respectively concluded between His Britannic Majesty and the Emperor of All the Russias under date of the 16th (28th) February, A.D. 1825, and between the United States of America and the Emperor of All the Russias concluded under date of the 18th (30th) March, A.D. 1867; and particularly the Articles III, IV, V, and VII of the first-mentioned Convention, which in the original text are word for word as follows:—

"III. La ligne de démarcation entre les possessions des Hautes Parties Contractantes sur la côte du Continent et les Iles de l'Amérique Nord-Ouest, sera tracée ainsi qu'il suit:—

"A partir du point le plus méridional de l'île dite *Prince of Wales*, lequel point se trouve sous la parallèle du 54° 40' de latitude nord, et entre le 131° et le 133° degré de longitude ouest (méridien de Greenwich), la dite ligne remontera au nord le long de la passe dite *Portland Channel*, jusqu'au point de la terre ferme où elle atteint le 56° degré de latitude nord; de ce dernier point la ligne de démarcation suivra la crête des montagnes situées parallèlement à la côte, jusqu'au point d'intersection du 141° degré de longitude ouest (même méridien); et, finalement, du dit point d'intersection, la même ligne méridienne du 141° degré formera, dans son prolongement jusqu'à la Mer Glaciale, la limite entre les possessions Russes et Britanniques sur le Continent de l'Amérique Nord-Ouest.

"IV. Il est entendu, par rapport à la ligne de démarcation déterminée dans l'Article précédent:

"1. Que l'île dite *Prince of Wales* appartiendra tout entière à la Russie.

"2. Que partout où la crête des montagnes qui s'étendent dans une direction parallèle à la côte depuis le 56° degré de latitude nord au point d'intersection du 141° degré de longitude ouest, se trouverait à la distance de plus de 10 lieues marines de l'océan, la limite entre les possessions Britanniques et la lisière de côte mentionnée ci-dessus comme devant appartenir à la Russie, sera formée par une ligne parallèle aux sinuosités de la côte, et qui ne pourra jamais en être éloignée que de 10 lieues marines.

"V. Il est convenu, en outre, que nul établissement ne sera formé par l'une des deux Parties dans les limites que les deux Articles précédents assignent aux possessions de l'autre. En conséquence, les sujets Britanniques ne formeront aucun établissement soit sur la côte, soit sur la lisière de terre ferme comprise dans les limites des possessions Russes, telles qu'elles sont désignées dans les deux Articles précédents; et, de même, nul établissement ne sera formé par des sujets Russes au delà des dites limites.

"VII. Il est aussi entendu que, pendant l'espace de dix ans, à dater de la signature de cette Convention, les vaisseaux des deux Puissances, ou ceux appartenant à leurs sujets respectifs, pourront réciproquement fréquenter, sans entrave quelconque, toutes les mers intérieures, les golfes, havres, et criques sur la côte mentionnée dans l'Article III, afin d'y faire la pêche et le commerce avec les indigènes."

The Arbitrators shall also take into consideration any action of the several Governments, or of their respective Representatives, preliminary or subsequent to the conclusion of said Treaties, so far as the same tends to show the intentment of the Parties in respect to the limits of their several territorial jurisdictions under and by virtue of the provisions of said Treaties.

ARTICLE IV.

The said Tribunal shall answer and decide the following questions:—

1. Referring to Article III of said Treaty of 1825 between Great Britain and Russia, was it intended thereby that the line of demarcation should be traced from the southernmost point of the island, now known as the Prince of Wales Island, along the parallel of 54° 40' north latitude to the passage now commonly known and marked on the maps as the "Portland Channel," and thence along the middle of said

channel northward until said northward line shall reach on the mainland of the continent the 56th degree of north latitude?

If not, how should said line be traced to conform to the provisions of said Treaty?

2. In extending the line of demarcation northward from said point on the parallel of the 56th degree of north latitude, following the crest of the mountains situated parallel to the coast until its intersection with the 141st degree of longitude west of Greenwich, subject to the condition that when such line should exceed the distance of 10 marine leagues from the ocean, then the boundary between the British and the Russian territory should be formed by a line parallel to the sinuosities of the coast and distant therefrom not more than 10 marine leagues, was it the intention and meaning of said Convention of 1825 that there should remain in the exclusive possession of Russia a continuous fringe or strip of coast on the mainland, 10 marine leagues in width, separating the British possessions from the bays, ports, inlets, havens, and waters of the ocean, and extending from the said point on the 56th degree of latitude north to a point where such line of demarcation should intersect the 141st degree of longitude west of the meridian of Greenwich?

If not, how should said line of demarcation be traced to conform to the provisions of said Treaty?

ARTICLE V.

The Arbitrators shall assemble for their first meeting at so soon as practicable after receiving their commissions, and shall themselves fix the times and places of all subsequent meetings.

The decision of the Tribunal shall be made so soon as possible after the conclusion of the arguments in the Case, and within three months thereafter, unless the President of the United States and Her Britannic Majesty shall by common accord extend the time therefor. The decision shall be made in writing and dated, and shall be signed by the Arbitrators assenting to the same. It shall be signed in duplicate, one copy whereof shall be given to the Agent of the United States of America for his Government, and the other to the Agent of Her Britannic Majesty for his Government.

ARTICLE VI.

When the High Contracting Parties shall have received the decision of the Arbitrators upon the questions submitted as provided in the foregoing Articles, they will at once proceed with negotiations for the final adjustment and demarcation of the said boundary-line in conformity with such decision.

Should there be unfortunately a failure by the majority of the Arbitrators to agree upon any of the points submitted for their decision, it shall be their duty to so report in writing to the respective Governments through their respective Agents. Should there be an agreement by a majority upon a part of the questions submitted, it shall be their duty to sign and report their decision upon the points of such agreement in the manner hereinbefore prescribed.

ARTICLE VII.

The present Treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate, and by Her Britannic Majesty, and the ratifications shall be exchanged in Washington or in London so soon as the same may be effected.

In faith whereof we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done at Washington, in duplicate, this day of
A.D. nineteen hundred.

Inclosure 2 in No. 5.

Draft Treaty on Canadian Questions.

THE United States of America and Her Britannic Majesty, being desirous of removing all causes of differences between the United States and the Dominion of Canada and of promoting free and amicable intercourse between the two coterminal countries, have, for that purpose, appointed their respective Plenipotentiaries, that is to say:

The President of the United States has appointed

And Her Britannic Majesty, on her part, has appointed

And said Plenipotentiaries, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed to and concluded the following Articles:—

DRAFT OF TREATY.

Article	
I	Fur Seals.
II	Fishing in Contiguous Waters
III	Hunted Privileges.
IV	Railroad Transportation.
V	Canals and Lake Michigan.
VI	Alien Labour Immigration.
VII	Mining Rights.
VIII	Armament on Great Lakes.
IX	Conveyance of Prisoners.
X	Wreckage and Salvage of Vessels.
XI	Marking Boundary West of Lake Superior.

ARTICLE I.

The High Contracting Parties mutually and reciprocally agree that their respective subjects, citizens, and vessels shall be prohibited from engaging in pelagic sealing in any part of the waters of the North Pacific Ocean and Behring Sea, and that every person or vessel offending against this prohibition may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties; but they shall be delivered as soon as practicable to the authorities of the nation to which they respectively belong, who alone shall have jurisdiction to try the offence and impose the penalties for the same, the witnesses and proof necessary to establish the offence being also sent with them or otherwise furnished to the proper jurisdictional authority with all reasonable promptitude; and they agree, further, respectively, to prohibit the use of any British or United States' port by any persons for any purposes whatsoever connected with the operation of pelagic sealing in said waters, and to prohibit the importation or bringing of any fur-seal skins taken in such pelagic sealing into any British or United States' port, and by the necessary legislation and enforcement of appropriate penalties thereunder to make such prohibitions effective.

Such prohibitions, however, shall not apply to Indians dwelling on the coasts of the territory of the United States or of Great Britain and carrying on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled wholly by paddles, oars, or sails, and manned by not more than five persons each, in the way hitherto practised by the Indians without the use of fire-arms: provided such Indians are not in the employment of other persons nor under contract for the delivery of the skins to any person.

The prohibitions aforesaid which the Government of Great Britain agrees to enact and the penalties which it agrees to enforce shall take effect from the date when payment is made by the United States of the sum of dollars, in this Article hereinafter agreed to be paid.

The Government of the United States agrees to pay to the Government of Her Britannic Majesty within _____ months of the exchange of ratifications of this Treaty the sum of _____ dollars as full compensation to British subjects on account of the foregoing prohibition and in settlement of all claims against the United States arising out of the operation of pelagic sealing or measures for the prevention thereof

The Government of the United States further agrees to pay annually to the Government of Her Britannic Majesty _____ per cent. of the _____ amount received by the Government of the United States from the taking of fur-seals on the Pribyloff Islands. The first annual payment shall be made _____ years from the day of the payment of the sum of _____ dollars, above mentioned, and all subsequent payments on or before the same day in each succeeding year.

The prohibitions hereinbefore provided for on the part of the Government of Her Britannic Majesty shall continue in full effect and be in force so long as the annual payments aforesaid continue to be made, and so long as the prohibitions hereinbefore provided for on the part of the United States continue in full effect.

The term "pelagic sealing," as used in this Article, is defined to be the killing, capturing, or pursuing in any manner whatsoever of fur-seals on the high sea.

ARTICLE II.

The High Contracting Parties, recognizing the necessity of uniform and effective measures for the protection and preservation of the food fishes in the waters contiguous to the common frontier of the United States and Canada, hereby agree that the times, seasons, and methods of fishing in such contiguous waters, and the nets, engines, gear, apparatus, and appliances which may be used therein, shall be fixed and determined by uniform and common International Regulations, restrictions and provisions, and to that end agree to appoint, within three months after this Convention goes into effect, a Commission to be known as the International Fisheries Commission, consisting of one person named by each Government. It shall be the duty of this Commission, within six months after being named, to prepare a system of uniform and common International Regulations for the protection and preservation of the food fishes in each of the waters prescribed in this Article, which Regulations shall embrace close seasons, limitations as to the character, size, and manner of use of nets, engines, gear, apparatus, and other appliances, a system of registry of vessels for commercial fishing in waters where required, and such other provisions and measures as the Commission shall deem necessary.

The two Governments engage to put in operation, and to enforce by legislative and executive action, with as little delay as possible, the Regulations and restrictions with appropriate penalties for all breaches thereof, and the date when they shall be put in operation shall be fixed by the concurrent Proclamations of the President of the United States and the Governor-General of the Dominion of Canada in Council.

Such Regulations and restrictions shall remain in force for a period of four years from the date of their executive promulgation, and thereafter for one year from the date when either of the Governments of the United States of America or Great Britain shall give notice to the other of its desire for their revision, whereupon the Commission provided for in this Article shall make a revision thereof, which revised Regulations, if adopted by the two Governments, shall remain in force for another period of five years and until one year from the time when a further notice of revision is given. It shall, however, be within the power of the two Governments by joint or concurrent action, upon the recommendation of the Commission, to make modifications at any time in the Regulations.

It is agreed that the waters within which the aforementioned Regulations are to be applied shall be as follows: (1) The territorial waters of Passamaquoddy Bay; (2) the St. John and St. Croix Rivers; (3) Lake Champlain; (4) the St. Lawrence River, where the said river constitutes the international boundary; (5) Lake Ontario; (6) Niagara River; (7) Lake Erie; (8) the waters connecting Lake Erie and Lake Huron, including Lake St. Clair; (9) Lake Huron and its bays; (10) St. Mary's River and Lake Superior; (11) Lake of the Woods; (12) the Strait of Juan de Fuca, those parts of Washington Sound, and the Gulf of Georgia and Puget Sound lying between the parallels of 48° 10' and 49° 20'; (13) and such other contiguous waters as may be recommended by the International Fisheries Commission and approved by the two Governments. It is agreed on the part of Great Britain that the Canadian Government shall protect by adequate Regulations the food-fishes frequenting the Fraser River.

This Commission shall continue in existence so long as this Article shall be in

force, and each Government shall have the power to fill, and shall fill, from time to time, any vacancy which may occur in its representation on the Commission. Each Government shall pay its own Commissioner, and any joint expenses shall be paid by the two Governments in equal moieties.

ARTICLE III.

It is agreed that the goods, wares, or merchandize arriving at the ports of New York, Boston, and Portland, and any other ports of the United States which have been or may from time to time be especially designated by the President of the United States, and destined for Her Britannic Majesty's possessions in North America, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, across the territory of the United States, under such Rules, Regulations, and conditions for the protection of the revenue as the Government of the United States may from time to time prescribe; and, under like Rules, Regulations, and conditions, goods, wares, or merchandize may be conveyed in transit, without the payment of duties, from such possessions across the territory of the United States for export from the said ports of the United States.

2. It is further agreed that goods, wares, or merchandize arriving at any of the ports of Her Britannic Majesty's possessions in North America, and destined for the United States, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, across the said possessions, under such Rules, Regulations, and conditions for the protection of the revenue as the Government of the said possessions may from time to time prescribe; and under like Rules, Regulations, and conditions, goods, wares, or merchandize may be conveyed in transit, without payment of duties, from the United States across the said possessions for export from ports in the said possessions.

3. Merchandize in a bonded warehouse of either the United States or Dominion of Canada, when withdrawn for shipment to the other country, shall be entitled to the same treatment in the country of destination as though it had not entered such bonded warehouse.

4. Fish caught in the high seas by the citizens or subjects of either of the High Contracting Parties and destined for transit across the country of the other are entitled to the privileges accorded to other merchandizes in the foregoing paragraphs of this Article.

ARTICLE IV.

It is agreed by the High Contracting Parties that the Railroad Companies of the Dominion of Canada may freely transport passengers and merchandize from point to point in the United States passing through some intervening territory of the Dominion of Canada, without the payment of customs duties upon such merchandize, and under such Rules and Regulations for the protection of its revenues as the Government of the United States may from time to time prescribe: Provided that such passengers and merchandize shall be carried subject to the Laws of the United States, and in conformity with the Rules, recommendations, and orders which may from time to time be prescribed by the Interstate Commerce Commission for the government of the Railroad Companies of the United States, if engaged in the transportation of such traffic entirely within the United States. The Railroad Companies of the Dominion of Canada shall observe all Rules, recommendations, and orders of the Interstate Commerce Commission of the United States which may be made, after reasonable notice, hearing, and consideration, with respect to the transportation of such passengers and merchandize.

2. The Dominion of Canada may appoint, without expense to the United States, a suitable person to sit as a member of the Interstate Commerce Commission in the hearing and determination of all matters affecting the Railroad Companies of the Dominion of Canada, and arising under the provisions of this Treaty. Such members shall with respect to such matters have the like full powers of other members of the Interstate Commerce Commission.

3. The Interstate Commerce Commission shall have the same right and power in the taking of evidence and in the examination of books and papers of the Railroad Companies of the Dominion of Canada, with respect to such traffic, as they shall have under like circumstances in the taking of evidence and the examination of books and papers of Railroad Companies in the United States.

4. In the event that a Railroad Company in the Dominion of Canada shall, after reasonable notice, which shall in no case be less than fifteen days, fail or refuse to comply with any Law, Rule, recommendation, or order, the Interstate Commerce Commission of the United States may certify such fact to the Secretary of the Treasury, who may thereupon withdraw the bonding and other privileges enjoyed by such Railroad Company, and thereafter all merchandize transported by such Railroad Company shall, before it is admitted into the United States from the Dominion of Canada, be subject to customs duties as if it were of foreign production.

5. When the delinquent or offending Railroad Company shall have complied with the Law, Rule, recommendation, or order which it has violated, the Interstate Commerce Commission shall certify such fact to the Secretary of the Treasury, who shall thereupon permit such Railroad Company to again enjoy the privileges herein granted, subject to the limitations and conditions hereof.

6. Each of the Railroad Companies of the Dominion of Canada desiring to enjoy the privileges of this Treaty shall designate to the Interstate Commerce Commission an agent and office in the city of Washington, upon whom and where service of all the Rules, recommendations, and orders to be issued by the said Commission may be served.

7. The Railroad Companies of the United States may freely transport passengers and merchandize from point to point in the Dominion of Canada passing through some intervening territory of the United States, without the payment of customs duties upon such merchandize, and under such Rules and Regulations for the protection of its revenue as the Dominion of Canada may from time to time prescribe: Provided that such passengers and merchandize shall be carried subject to the Laws of the Dominion of Canada, and in conformity with the Rules, recommendations, and orders which may from time to time be prescribed by the Railway Committee of the Privy Council for the government of the Railroad Companies of the Dominion of Canada, if engaged in the transportation of such traffic entirely within the Dominion of Canada. The Railroad Companies of the United States shall observe all Rules, recommendations, and orders of the Railway Committee of the Privy Council of the Dominion of Canada which may be made, after reasonable notice, hearing, and consideration, with respect to the transportation of such passengers and merchandize.

8. The Railway Committee of the Privy Council shall have the same right and power in the taking of evidence and the examination of books and papers of the Railroad Companies of the United States with respect to such traffic as they shall have under like circumstances in the taking of evidence and the examination of books and papers of Railroad Companies in the Dominion of Canada.

9. In the event that a Railroad Company of the United States shall, after reasonable notice, which shall in no case be less than fifteen days, fail, or refuse, to comply with any Law, Rule, recommendation, or order, the Railway Committee of the Privy Council shall thereupon, by proclamation, withdraw the bonding and other privileges enjoyed by such Railroad Company, and thereafter all merchandize transported by such Railroad Company shall, before it is admitted into the Dominion of Canada from the United States, be subject to customs duties as if it were of foreign production.

10. When the delinquent or offending Railroad Company shall have complied with the Law, Rule, recommendation, or order which it has violated, the Railway Committee of the Privy Council shall, by proclamation, permit such Railroad Company to again enjoy the privileges herein granted, subject to the limitations and conditions hereof.

11. Each of the Railroad Companies of the United States desiring to enjoy the privileges of this Treaty shall designate to the Railway Committee of the Privy Council an agent and office in the city of Ottawa, upon whom and where service of all the Rules, recommendations, and orders to be issued by the said Railway Committee of the Privy Council may be served.

12. In the event either of the High Contracting Parties shall at any time believe that the bonding privilege has been unfairly or improperly withdrawn from its Railroad Companies by the other country, it may, so long as such unfair or improper withdrawal shall continue, exclude the Railroad Companies of such other country from enjoying the bonding privilege herein granted to them.

ARTICLE V.

The High Contracting Parties hereby annul Article XXVII of the Treaty of 1871 between them, and in lieu thereof engage that the citizens of the United States shall enjoy, for their vessels and merchandize, the use of the Welland, St. Lawrence, and other

canals in the Dominion of Canada, on terms of absolute equality with the inhabitants of the Dominion of Canada. In the event the Dominion of Canada shall levy any tolls for the use of said canals, such tolls shall not be so levied as to discriminate against the merchandize of the citizens of the United States, either because of its character or destination. And it is also agreed that the inhabitants of the Dominion of Canada shall enjoy the use of the Sainte Clair Flats Canal on terms of absolute equality with the citizens of the United States.

2. The United States further engages to urge upon the Governments of the States of New York and of Michigan respectively, if occasion should require, to continue to the inhabitants of Canada the use of the Erie, Whitehall, and Sault Sainte Marie Canals, on terms of absolute equality with the citizens of the United States.

3. The inhabitants of Canada, in connection with the use of the Erie Canal, shall have the right of free navigation to and from the lower waters of the Hudson River, on terms of absolute equality with the citizens of the United States, subject to any Laws and Regulations of the United States not inconsistent with such privileges of free navigation.

4. And it is mutually agreed that, in the concession of privileges herein, full power is granted for the transhipment of cargoes from vessels into canal boats, and from canal boats into vessels, at either terminus of every canal.

5. The navigation of Lake Michigan shall be free and open for the purpose of commerce to the subjects of Her Britannic Majesty, subject to any Laws and Regulations of the United States, or of the States bordering thereon, not inconsistent with such privileges of free navigation.

ARTICLE VI.

It is hereby agreed that, notwithstanding anything in the laws of the United States or of the Dominion of Canada to the contrary, the passage of persons from the United States to the Dominion of Canada, and from the Dominion of Canada to the United States, shall be allowed, where such persons are native or naturalized citizens of the United States, or British subjects, native or naturalized, and have resided for at least one year in the United States or in the Dominion of Canada respectively.

The foregoing provision shall not be construed so as to affect the right of either the United States or the Dominion of Canada to exclude idiots, paupers, insane persons, persons suffering from a loathsome or a dangerously contagious disease, persons who have been convicted of a felony or other infamous crime or misdemeanour involving moral turpitude (not including political offences), polygamists, and persons imported for immoral purposes; or the right of either country to exclude natives of other countries and races whose immigration is, or may be hereafter, prohibited by legislation.

ARTICLE VII.

The right of mining and the acquisition of mining rights within the Dominion of Canada are conceded to citizens of the United States upon the same terms and conditions which are at the time enjoyed by natives of the Dominion.

Reciprocally, and as compensation therefor, the right of mining and the acquisition of mining rights within the jurisdiction and disposal of the United States are conceded to the Canadian subjects of Her Majesty upon the same terms and conditions which are at the time enjoyed by citizens of the United States.

The miners of the respective countries entering the territory of the other shall each be entitled to the entrance free of duty of his accompanying outfit, including his wearing apparel, tent, fur robes, or woollen and rubber blankets, for his personal use, cooking utensils, mining implements for manual use, and whatever articles are necessary and appropriate for his personal comfort and use as a miner in such territory, the value not to exceed in the aggregate 250 dollars, together with provisions for his journey and for a period of two months after his arrival. The respective Governments of the Dominion of Canada and of the United States shall make suitable Regulations in a liberal spirit for giving effect to this provision.

Where miners' licences, certificates, or other official papers are required by either Government, the same shall be provided at convenient points on the usual lines of travel, with terms, conditions, and charges, if any, equally applicable to miners of both countries.

Nothing in this Article contained shall be deemed to restrict the power of either

the United States or any State thereof, or of the Dominion of Canada or any province thereof, to modify their legislation in respect to mining or the acquisition or transfer of mining rights; but the terms and conditions provided therein shall be equally and reciprocally applicable to miners of both countries.

No duty, charge, or other restriction shall be imposed in the country of production upon the transfer thence to any other country of the product of the mines embraced within the provisions of this Article and belonging to the citizens or subjects of the other country.

ARTICLE VIII.

The High Contracting Parties engage to annul their Agreement of 1817 in respect to the maintenance of a naval force and the construction of armed vessels on the Great Lakes; and in lieu of such Agreement substitute the following:—

Neither Government shall hereafter maintain upon the Great Lakes any naval armament or vessels of war, except as follows:—

Either Government may hereafter maintain upon the said lakes not more than two vessels of a maximum displacement of 1,000 tons each, with not more than two guns of a calibre not exceeding 4 inches, and six guns of minor calibres each; such vessels to be used only for the purpose of naval instruction and training.

Each Government may maintain not more than six revenue-cutters of a maximum displacement of 900 tons each, armed with not exceeding one 6-pr. rapid fire gun each.

Each Government may make use of the industrial establishments on the shores of said lakes for building the above-mentioned vessels, and also for the construction of naval vessels for use upon the high seas; but such naval vessels shall not be armed or rendered available for war on said lakes. Not more than one of the last-named vessel shall be completed to the point where it may be armed or rendered available for war at the same time; it shall be delivered at the Atlantic sea-board at as early a date as practicable after it has been prepared to receive its guns, and for that purpose shall have passage through all intermediate waterways.

ARTICLE IX.

Any officer of the United States of America, or of any State or territory thereof, having in his custody without the borders of Canada, by virtue of any warrant or other lawful process issued by authority of the United States or of any State or territory thereof, any person charged with or convicted of a criminal offence committed within the jurisdiction of the United States or of any State or territory thereof, may, in executing such warrant or process, convey such person through any part of Canada to a place in the United States, if such warrant or process is indorsed by a Judge, Magistrate, or Justice of the Peace in Canada, or if the authority of the Minister of Justice of Canada for such conveyance is first obtained.

During such conveyance of such person through Canada such officer may keep such person in his custody, and in case of escape may recapture him.

Any officer of the Dominion of Canada or of any province or territory thereof, having in his custody without the borders of the United States of America, by virtue of any warrant or other lawful process issued by authority of the law of the Dominion or of any province or territory thereof, any person charged with or convicted of a criminal offence committed in Canada, may, in executing such warrant or process, convey such person through any part of the United States to a place in Canada, if such warrant or process is indorsed by a Judge, Magistrate, or Justice of the Peace in the United States, or if the authority of the Secretary of State [? the Department of Justice] of the United States for such conveyance is first obtained.

During such conveyance of such person through the United States such officer may keep such person in his custody, and in case of escape may recapture him.

The foregoing provisions shall apply only to persons charged with or convicted of offences of the following descriptions:—

1. Offences for which extradition is at the time authorized by a Convention in force between the Governments of the United States and of Great Britain.
2. Assault with the intent to commit grievous bodily harm.
3. Assault upon an officer of the law in the execution of his duty.

The two Governments may by common accord make further or other Regulations for certifying the warrant or process under which the person in custody is to be conveyed, as before provided.

ARTICLE X.

Whereas reciprocal legislation now exists in the United States of America and in Canada permitting the vessels of each country respectively to save any property wrecked, and to render aid and assistance to any vessels wrecked, disabled, or in distress, in the waters of each of such countries contiguous to the other; and it is desirable that such legislation should be permanent and be made to define clearly the meaning of the terms in such legislation of "the waters of Canada contiguous to the United States," and "the waters of the United States contiguous to the Dominion of Canada":

It is therefore agreed and defined that vessels and wrecking appliances of the United States and of Canada respectively may save any property wrecked, and may render aid and assistance to any vessels wrecked, disabled, or in distress—

(1.) In the waters or on the shores of the St. Lawrence River where the said river constitutes the international boundary;

(2.) In the waters and along the shores of Lake Ontario, Lake Erie, Lake Huron, and the waters connecting Lakes Erie and Huron, including Lake St. Clair;

(3.) In the St. Mary's River and Lake Superior.

(4.) And in the waters of the Atlantic and Pacific Oceans, along the coast-line and islands, in all the bays, sounds, straits, and open ocean lying or being within the distance of 80 miles from the international water boundary-line.

It is further agreed that such reciprocal wrecking privileges shall include all necessary towing incident thereto, and that nothing in the customs, coasting, or other Laws or Regulations of either country shall be so construed as to restrict in any manner the proper saving operations of such vessels or wrecking appliances.

It is further agreed that the owners or consignees of any disabled vessel or cargo in peril may employ their own vessels and appliances for the rescue or salvage of their own property, whether the same be within or without the limits prescribed in the preceding clause of this Article.

Vessels employed as above stated shall, as soon as practicable afterwards, make full report at the nearest custom-house of the country in whose waters such saving takes place.

Note (a.).

Mr. Kasson insisted on this clause to conserve the inherent right of an owner, or his agents, to save his own property. Some steam-ship lines have their own wrecking vessels and apparatus, and are morally entitled to use it for the protection of their own ships and cargoes, wherever wrecked.

ARTICLE XI.

In order to provide for the amicable adjustment of possible differences and conflicts of jurisdiction in respect to the international boundary-line hereinafter described, it is agreed that whenever differences shall arise in respect to the precise limits of the respective national jurisdictions between the point where the boundary-line enters the Iroquois or St. Lawrence River and westward to Rainy Lake, as described in the Treaty concluded at Washington on the 9th day of August, 1842, and known as the Webster-Ashburton Treaty, and as further delineated on the maps certified by the signatures of Daniel Webster and Ashburton to be the maps of boundary agreed to by said Treaty, the high Signatory Parties shall each appoint one expert geographer or surveyor as a Commissioner, and the two Commissioners so appointed, after making oath in writing that they will impartially and faithfully perform this duty, shall by common accord proceed to ascertain the boundary-line so brought in question, and shall designate and mark the same in such manner, by monuments on land or by marks or ranges from the shore where the boundary is a water-line, as shall be most practicable and certain; and shall make joint report of all points of their agreement, and of their disagreement, if any, to both Governments. Their joint agreement shall be accepted as determining the line in question. In case of their disagreement the High Contracting Parties shall agree upon a third impartial Commissioner, whose award upon the point or points of disagreement shall be accepted as final. The reasonable expenses of such Commission shall be paid by the two parties in equal moieties.

Note.

This Article, prepared by Mr. Kasson, will be useful if the subjects shall not be covered by a separate Treaty, as proposed.

Colonial Office to Foreign Office.—(Received May 25.)

Sir,

Downing Street, May 24, 1901.

I AM directed by Mr. Secretary Chamberlain to transmit to you, for the information of the Marquess of Lansdowne, with reference to previous correspondence, a copy of a despatch from the Governor-General of Canada, submitting the joint Report (with maps) of the officers appointed to establish the provisional boundary between Canada and Alaska in the region about the head of the Lynn Canal.

I am to request the return of the maps, which are sent in original.

I am, &c.

(Signed) C. P. LUCAS.

Inclosure 1 in No. 6.

Governor-General the Earl of Minto to Mr. Chamberlain.

Sir,

Government House, Ottawa, March 22, 1901.

I HAVE the honour to forward herewith a copy of an approved Minute of the Privy Council, submitting the joint Report of Mr. W. F. King, Chief Astronomer of the Department of the Interior, and Mr. Otto H. Tittmann, of the United States' Coast and Geodetic Survey, the officers appointed respectively by Her Majesty's Government and by the Government of the United States to establish the provisional boundary between Canada and Alaska in the region about the head of Lynn Canal, under the arrangement settled by an exchange of notes between Her Majesty's Chargé d'Affaires at Washington and the United States' Secretary of State on the 20th October, 1899.

I have, &c.

(Signed) MINTO.

Inclosure 2 in No. 6.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 20th February, 1901.

ON a Memorandum, dated the 6th February, 1901, from the Minister of the Interior, submitting herewith the joint Report, signed by Mr. W. F. King, Chief Astronomer of the Department of the Interior, and Mr. Otto H. Tittmann, of the United States' Coast and Geodetic Survey, the Commissioners appointed under the *modus vivendi* agreed to between Great Britain and the United States on the 20th October, 1899.

The Minister states that this Report, with the accompanying maps, exhibits the operations of the Commissioners, as regards the survey and demarcation under the provisions of the above-mentioned *modus vivendi*, of the provisional boundary-line between the territory of Alaska and the Dominion of Canada about the head of Lynn Canal.

The Minister recommends that the Report and maps be deposited, with the plans of survey and other documents of record, in the Department of the Interior having reference to the external boundaries of Canada, and that copies thereof be laid before Parliament.

The Committee, on the recommendation of the Minister of the Interior, advise that your Excellency be moved to forward a certified copy of this Minute, together with certified copies of the said mentioned Report and maps, to the Right Honourable the Secretary of State for the Colonies, for the information of His Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed)

JOHN J. McGEE,

Clerk of the Privy Council.

Inclosure 3 in No. 6.

Joint Report by Messrs. Tittmann and King.

WE, the Undersigned, Otto H. Tittmann and William F. King, Commissioners, on behalf of the United States and Great Britain respectively, for the demarcation of the provisional boundary-line between Canada and the territory of Alaska, as provided for by the Agreement of the 20th October, 1899, submit the following report upon the field work of the said demarcation.

The Agreement relating to this provisional boundary-line, under the authority of which our operations were performed, was entered into by Honourable John Hay, Secretary of State of the United States, and Mr. Reginald Tower, Chargé d'Affaires of Her Britannic Majesty at Washington, and is as follows:—

"It is hereby agreed between the Governments of the United States and of Great Britain that the boundary-line between Canada and the territory of Alaska in the region about the head of Lynn Canal shall be provisionally fixed as follows without prejudice to the claims of either party in the permanent adjustment of the international boundary.

"In the region of the Dalton Trail, a line beginning at the peak west of Porcupine Creek, marked on the map No. 10 of the United States' Commission, the 31st December, 1895, and on Sheet No. 18 of the British Commission, the 31st December, 1895, with the No. 6590 thence running to the Klehini (or Klaheela) River in the direction of the peak north of that river, marked 5020 on the aforesaid United States' map, and 5025 on the aforesaid British map; thence following the high or right bank of the said Klehini River to the junction thereof with the Chilkat River, a mile and a-half, more or less, north of Klukwan, provided that persons proceeding to or from Porcupine Creek shall be freely permitted to follow the trail between the said creek and the said junction of the rivers into and across the territory on the Canadian side of the temporary line wherever the trail crosses to such side, and, subject to such reasonable regulations for the protection of the revenue as the Canadian Government may prescribe, to carry with them over such part or parts of the trail between the said points as may lie on the Canadian side of the temporary line, such goods and articles as they desire, without being required to pay any Customs duties on such goods and articles; and from said junction to the summit of the peak east of the Chilkat River, marked on the aforesaid map No. 10 of the United States' Commission with the No. 5410, and on the map No. 17 of the aforesaid British Commission with the No. 5490.

"On the Dyea and Skagway trails, the summits of the Chilkoot and White Passes.

"It is understood, as formerly set forth in communications of the Department of State of the United States, that the citizens or subjects of either Power, found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy.

"The Government of the United States will at once appoint an officer or officers in conjunction with an officer or officers to be named by the Government of Her Britannic Majesty to mark the temporary line agreed upon by the erection of posts, stakes, or other appropriate temporary marks."

Having met for conference relating to and preparations for the field work in Ottawa on the 18th, 19th, and 20th January, and at Washington on the 23rd and 24th April, we again met at Skagway on the 6th June, and forthwith proceeded to the work in the region of the Dalton Trail. This was completed by the middle of July. We then placed the necessary marks at the White Pass and the Chilkoot Pass and left Skagway, on our return eastward, on the 28th July.

In carrying out the demarcation the duties of the Commissioners were to identify the natural features named in the description and to trace out the line described, placing a sufficient number of marks to render the line easily recognizable.

The mountain peaks were readily and surely identified by means of the maps referred to in the Agreement, with the assistance of the photographs which had been used in the construction of those maps.

The "high" bank of the Klehini River is that bank which bounds the stony flat in which the river flows and marks the ordinary limit of its shifting channels, although at the same time this "high" bank may not be absolutely the bank of extreme flood water. This fulfils the intention of the Agreement by providing a natural and easily-traced mark, not subject to continual change, as would be the centre or edge of the river. The impossibility of adopting any other definition of "high" bank consistently was manifest from the conditions existing at or near the junction of the Klehini and the Chilkat Rivers, where the adoption of a bank rising above the highest flood-level would have produced a

result clearly not contemplated by the Agreement. At one place only—the flat on which stand posts Nos. 8, 9, 10, and 11—was it found difficult to trace out a “high” bank which would be sufficiently straight to form a convenient and unmistakable boundary. This case will be hereinafter referred to again.

The artificial marks placed are bars of wrought iron, $1\frac{1}{4}$ inches square and 5 feet long. The lower ends were pointed, with ragged edges, to prevent the posts being easily pulled up. Near the top of the posts were fixed, by bolts, small rectangular targets of iron or brass, carrying the necessary inscription. This was, on the one side: “P.B.” (for Provisional Boundary), “1899, U.S.”; and on the other side: “P.B., 1899, Canada.” Most of the posts were painted red on the Canadian side and blue on the United States’ face.

Where the solid rock was not found the usual method of planting the posts was to dig a hole about 3 feet deep, and place therein a log 8 or 10 inches in diameter, into which the post was solidly driven. The earth was then thoroughly tamped on top of the log and around the post.

On the summit of White and Chilkoot Passes the posts were set in holes bored in the rock, and securely fixed by pouring in melted lead.

In the following description of the places of the posts the order of survey is followed nearly, and the posts are numbered (for purposes of reference merely, no numbers having been placed upon the posts themselves) from east to west in the Dalton Trail region, being in the opposite direction from the order of the description in the Agreement.

The initial point is the peak behind Klukwan Village, altitude, by the maps, 5,410 or 5,490 feet. This peak presents a sharp appearance to the west, and has not been marked by us. From it the line runs down the mountain side, in a direct line, to the post planted on the bank of the Klehini at its junction with the Chilkat River. The intervening distance is, except near the mountain summit, through large cotton wood and spruce timber, with much undergrowth. The line has been well cleared out.

Post No. 1 is at the foot of the steep part of the mountain, and is the last point from which Klukwan Peak can be seen until the observer has climbed above the timber line.

Post No. 2 is 1,166 metres from Post No. 1, and is at the point where a foot-path from the village of Klukwan crosses the line.

Post No. 3 is 924 metres from No. 2, and is on the east side of the Chilkat River, about 5 metres from the bank.

Post No. 4 is that above referred to as the post planted on the bank of the Klehini, near its junction with the Chilkat River and the terminus of the straight line from Klukwan Peak. It is 262 metres from No. 3.

No. 5 is 115 metres from No. 4, on the first point of the high bank from which a view can be had up the valley of Klehini River. The high bank here, and as far as Post No. 8, is coincident with the line of timber.

No. 6 is 3,390 metres from No. 5, and is just below the first bluff, or eroded bank, on the south side of the Klehini River above its mouth.

No. 7 is 3,750 metres, measured in a straight line from No. 6, but probably nearly 3 miles, if the high bank is followed. No. 7 is at the point where the Dalton road enters the river flat from the timber at the place known as Sunshine.

No. 8 is on the left bank of Herman Creek, at its junction with the Klehini, 1,055 metres from No. 7.

Nos. 9, 10, and 11 stand on an extensive flat, which has already been referred to, where the line of high bank is so irregular that it would have been difficult without the use of a great number of posts to mark out the line so as to be at once satisfactory in use and in strict accordance with the terms of the Agreement. For this reason, we would recommend that it be not attempted to follow the high bank between these posts, but that straight lines joining Nos. 8 and 9, 9 and 10, and 10 and 11, successively, be recognized as the provisional boundary-line at this place. No. 9 is 906 metres from No. 8; No. 10, 610 metres from No. 9; and No. 11, 586 metres from No. 10. No. 11 is at the upper end of the flat, near the beginning of a ragged, rocky bluff.

No. 12 is 1,546 metres from No. 11, on the bank of a narrow channel or the river flowing behind a wooded island. This post is on the side of the Dalton Pack Trail, near the point where the trail descends from the rocky bluff to the river flat.

From No. 12 to the mouth of the Porcupine Creek the line follows the edge of the timber.

Post No. 13 is just above the mouth of the Porcupine Creek, and also just above

the point where the road from the river flat to the town of Porcupine leaves the river. It is 4,965 metres from Post No. 12.

No. 14 is 1,460 metres from No. 13. The line from No. 13 to No. 14 follows the bank of a prominent branch of the Klehini River. This post was placed exactly on the line between the peaks called, in our field notes, North Boundary Peak (5,020 or 5,025 feet) and South Boundary Peak (6,500 feet).

From Post No. 14 the line turns south-westerly towards South Boundary Peak, and was cut through the timber to the summit of the highest wooded ridge.

Post No. 15 is on the first bench above the valley of the Klehini, about 25 feet higher than the flat, and is 458 metres from No. 14.

The line between Posts Nos. 15 and 16, up the side of the steep, wooded mountain, is marked by the sky-line cutting through the timber (large spruce and hemlock, with much underbrush).

No. 16 is on the side of the bare summit-ridge at the highest point from which the line through the woods is visible.

No. 17 is 380 metres from No. 16, on the first prominent summit above the wooded slope. This is the last post set on this line. From it a view is obtained as far as South Boundary Creek (6,500 feet), over a bare ridge gradually rising towards the peak, and unbroken except by a few hollows and ravines.

White Pass.—The summit of White Pass is marked by four posts, three of which are in a straight line, nearly east and west, and the fourth some distance to the east and to the southward of this line.

Post No. 2 stands on the rocky ledge a short distance south of the railway station upon which the two flagstaffs stand. It is about midway between the flagstaffs, and about 14 metres to the west of the railway track.

No. 1 is 80 metres west of No. 2, and on the highest point visible from No. 2.

No. 3 is 239 metres east of No. 2 and on the highest point in that direction visible from No. 2.

No. 4 was placed upon the watershed between the waters flowing to the Yukon and those flowing to the Skagway River, 582 metres from No. 3, at a point where the old trail from Skagway to Lake Bennett crosses the Pass.

It is necessary to explain here that the watershed of the White Pass is very irregular. This is shown by the accompanying sketch. Owing to the overlapping of the drainage systems, the actual divide or parting of waters does not afford a practicable boundary-line. We have therefore to recommend that the successive straight lines joining the four posts be recognized as the provisional boundary-line so far as they extend. It appeared to us unnecessary at the present time to mark the line further at this place.

Chilkoot or Taiya Pass.—The summit of Chilkoot Pass is marked by two posts. One was placed on a small rocky hummock at the lowest point of the divide, where the old Chilkoot Trail crosses.

The other post was set about 100 metres to the westward of this, on the summit of a rock overlooking a small depression in the dividing ridge through which another trail passed.

The appended table of geographical positions and distances of posts is based, so far as the Klehini region is concerned, upon a traverse made up the valley beginning from certain triangulation stations near Klukwan, which had been occupied by Assistant J. F. Pratt, of the United States' Coast and Geodetic Survey in 1894. The measurements of this traverse, which also afforded the data for placing on the accompanying map the high or right bank of the Klehini River, were mostly made with micrometer and are not absolutely accurate, though sufficiently so for descriptive purposes.

The positions on the White Pass were determined by reference to data furnished by the Chief Engineer of the White Pass and Yukon Railway.

No data were available for the geographical determination of the location of the posts on the Chilkoot Pass. The somewhat extensive survey which would have been necessary to supply these data seemed unnecessary in view of the well-defined ridge at this point.

In witness whereof we have hereunto set our hands at the City of Washington, this second day of November, 1900.

(Signed)

O. H. TITTMANN, *United States' Commissioner.*
W. F. KING, *Her Majesty's Commissioner.*

Signed in the presence of—

FRANK WALLY PERKINS,
United States' Coast and Geodetic Survey.

APPENDIX.

GEOGRAPHICAL POSITIONS.

In the Dalton Trail Region.

Name.	Latitude.	Longitude.	To Station.	Distances.
	° ' "	° ' "		Metres.
Klukwan Peak ...	59 24 42	135 49 39		...
Post No. 1 ...	59 24 39	135 52 45	Post No. 2 ...	1,166
" " 2 ...	59 24 38	135 53 59	" " 3 ...	924
" " 3 ...	59 24 37	135 54 57	" " 4 ...	262
" " 4 ...	59 24 36	135 55 14	" " 5 ...	115
" " 5 ...	59 24 38	135 55 20	" " 6 ...	3,390
" " 6 ...	59 24 29	135 58 55	" " 7 ...	3,750
" " 7 ...	59 24 51	136 02 49	" " 8 ...	1,055
" " 8 ...	59 24 46	136 03 55	" " 9 ...	906
" " 9 ...	59 24 53	136 04 51	" " 10 ...	610
" " 10 ...	59 24 53	136 05 29	" " 11 ...	586
" " 11 ...	59 25 00	136 06 04	" " 12 ...	1,546
" " 12 ...	59 25 15	136 07 38	" " 13 ...	4,905
" " 13 ...	59 25 35	136 12 50	" " 14 ...	1,460
" " 14 ...	59 25 33	136 14 22	" " 15 ...	458
" " 15 ...	59 25 25	136 14 42	" " 16 ...	3,950
" " 16 ...	59 23 51	136 17 36	" " 17 ...	380
" " 17 ...	59 23 42	136 17 53	...	...
S. Bdy. Peak ...	59 21 33	136 21 58	...	...
N. Bdy. Peak ...	59 27 33	136 10 35	...	...

At White Pass.

Post No. 1 W. ...	59 37 27	135 07 32	Post No. 2 ...	90
" " 2 ...	59 37 27	135 07 27	" " 3 ...	239
" " 3 ...	59 37 26	135 07 12	" " 4 ...	582
" " 4 ...	59 37 17	135 06 39	...	...

No. 7.

Lord Pauncefote to the Marquess of Lansdowne.—(Received May 27.)

(No. 148.)
My Lord,

Washington, May 16, 1901.

I RECEIVED in due course the Marquess of Salisbury's despatch No. 222 of the 3rd October of last year with reference to the complaints of the Chilkat Indians as to the effect of the Alaskan boundary *modus vivendi*, and in which his Lordship authorized me to proceed to an arrangement with the United States' Government by which the Indians on both sides of the provisional line should receive the same treatment as heretofore.

Having inquired of the Earl of Minto what his wishes were on the subject, I received a despatch from his Excellency, dated the 11th January, upon which I addressed to the United States' Government the note, copy of which I have now the honour to inclose. I pointed out that the Dominion Government did not see its way to conceding to the Indians an unrestricted right of free passage across the boundary-line, but that they were prepared to instruct the Custom-house officers to pass the canoes, peltries, and usual effects of the Indians.

I have now received a reply from the Acting Secretary of State, copy of which I have the honour to inclose, in which he states that any arrangement contemplating the exemption of duty on goods otherwise dutiable is precluded by the Tariff Laws of the United States, and pointing out the reasons for which he thinks it unnecessary that the proposed arrangement should deal with the question of the duty on peltries, &c.

I have sent a copy of this note to the Governor-General of Canada.

I have, &c.
(Signed) PAUNCEFOTE.

Inclosure 1 in No. 7.

Lord Pauncefote to Mr. Hay.

Sir,

Washington, January 17, 1901.

I HAVE the honour to inform you that I lost no time in communicating to the Canadian Government a copy of your note of the 1st September last proposing an arrangement for continuing to the Chilkat Indians on both sides of the provisional Alaska boundary the privileges heretofore enjoyed by them.

I have now received a despatch from the Governor-General of Canada in reply to my communication, pointing out to me that the proposal of your Government is based upon an assumption that these Indians have not acquired a domiciliary status on either side of the boundary-line, while the fact appears to be that on the United States' side of the line they are established as United States' citizens, and living in permanent houses.

His Excellency's Government are therefore unable to see their way, consistently with the due enforcement of the Customs Laws, to concede to these Indians an unrestricted right of free passage across the boundary-line; but they are willing to instruct customs officers in the districts referred to to pass free the canoes used by Indians, their peltries, and other usual effects, and to interpret these instructions in as liberal a manner as the necessity of preventing frauds upon the revenue will permit.

His Excellency adds that his Government would not bind themselves to continue this privilege for a longer time than two years from the present date, and they suggest that a reciprocal concession as regards Canadian Indians be made by your Government.

I have the honour to transmit herewith a copy of an approved Minute of the Privy Council of Canada, which was inclosed in his Excellency's despatch, and which sets forth in somewhat greater detail the views of the Dominion Government on this subject, and I should be glad to be favoured with your views of your Government as to the foregoing proposals.

I am, &c.
(Signed) PAUNCEFOTE.

Inclosure 2 in No. 7.

Mr. Hill to Lord Pauncefote.

Excellency,

Department of State, Washington, May 13, 1901.

REFERRING to your note of the 17th January last, expressing the willingness of the Government of the Dominion to allow, for a period of two years, to Indians living on the American side of the present provisional Alaskan boundary the right of free passage across that boundary with peltries, canoes, and other usual effects, and suggesting that this Government concede a like right to Canadian Indians, I have the honour to inform you that, in his letter of the 7th instant, the Secretary of the Treasury says that any such arrangement, contemplating the exemption from duty of goods which would otherwise be dutiable, is precluded by the Tariff Laws of the United States. The provision in the Act of the 28th August, 1894, exempting from duty "peltries and other usual goods and effects of Indians passing and repassing the boundary-line of the United States" was repealed by the Act of the 24th July, 1897. Such peltries and other effects imported from British North America are therefore now subject to the general provisions of the Tariff, and are dutiable or free accordingly.

Mr. Gage adds that he thinks the proposed arrangement is unnecessary to secure to the Chilkat Indians the continuance of the rights heretofore enjoyed by them. The *modus vivendi* provides "that the citizens or subjects of either Power found by this arrangement within the temporary jurisdiction of the other shall suffer no diminution of the rights and privileges which they now enjoy." Among their rights is that of hunting and fishing in the valley where they live, which has been regarded as territory of the United States. This right has been enjoyed by these Indians, as stated in their Petition, from time immemorial. There has been no occasion for the payment of duty on their peltries and other

effects, and no valid reason is perceived by his Department for the assessment of duty on such effects in any part of that valley now.

I have, &c.
(Signed) DAVID J. HILL,
Acting Secretary.

No. 8.

Memorandum by Mr. Larcom on Draft Treaty on Canadian Questions which accompanied Lord Pauncefoot's Private Letter of May 10, 1901.

THE various Articles now submitted deal with the subjects included in the instructions to the Joint High Commissioners of the 19th July, 1898, with the exception of (1) the Alaska boundary, for dealing with which a separate Convention has been submitted; (2) the question of the fisheries off the Atlantic Coast; (3) cattle branding on the frontier; and (4) reciprocity.

ARTICLE I.

Fur-seal Fishery.

It was foreshadowed in the instructions to the British Commissioners, and decided very early in the negotiations of the High Commission, that a solution of this question should be sought on the lines now suggested, i.e., by an Agreement for the cessation of pelagic sealing, and compensation to be paid by the United States' Government to the owners of sealing-vessels and others engaged in the industry.

It was felt that Great Britain, in consideration of her abandoning her national right to seal and enforcing the proposed prohibition, was entitled to some equivalent commercial concession with regard to some of the other questions in discussion.

The draft Article now suggested is practically identical with that submitted by the Joint Commissioners, and sent home by Lord Herschell in his despatch No. 1 of the 7th February, 1899, with the following exceptions:—

Clause 1, line 15: The words "or otherwise furnished to the proper jurisdictional authority with all reasonable promptitude" have been inserted.

Clause 1, line 22: "Undressed" has been inserted before "seal-skins."

Clause 2, line 3: "Great Britain" has been substituted for "Canada."

In the antipenultimate clause the High Commission draft contained, after the words "Pribiloff Islands," the following: "or which it is entitled to receive from any persons for or in respect of the right to take the same, after deducting from the gross amount aforesaid such proportion thereof as 20,000 bears to the number of the seals taken on the island."

With regard to the amount of compensation (which is left blank in the draft Article), Lord Herschell stated, when sending home his draft Agreement, that Senator Fairbanks had named 500,000 dollars as the limit to which the United States would be prepared to go as a settlement of the compensation to the sealers, leaving the vessels and their outfits in the possession of the owners; that this figure was a great advance on any previous proposal, and that it did not substantially differ from the sum which we had been prepared to accept, viz., 600,000 dollars and a cession of their vessels and outfits by the owners.

With regard to the amount of the percentage to be paid annually by the United States out of their receipts from the seal-taking on the Pribiloff Islands, he added: "We considered that if the increase in the herd became very large owing to the cessation of pelagic sealing, the percentage to be paid should be proportionately increased. This was vehemently opposed by the United States' Commissioners. We ultimately made a modified proposal on a different basis. Taking, roughly, 20,000 as the number of seals which might be obtained on the islands even if pelagic sealing continued, we proposed that the percentage of the receipts to be handed over should only apply to the excess over 20,000 taken in each year, the effect of which would be to graduate the share of Canada, making it proportionately greater according as the growth of the herd became greater. This was assented to in principle by our American colleagues, but the percentage remains undetermined."

It was, no doubt, with a view of meeting this difficulty that the omitted clause above quoted was inserted.

ARTICLE II.

Provisions in respect of the Fisheries off the Pacific Coast and in the Inland Waters of the Common Frontier.

This was one of the subjects discussed by the Joint High Commission, and the present Article is practically identical with the draft Agreement which was submitted by the Committee and sent home by Lord Herschell in his despatch No. 8 of the 10th October, 1898.

The following trifling differences may be noted :—

Line 4, the words "the common frontier of" have been inserted after "contiguous to."

Clause 3, lines 11-12: "one year from the time when" have been inserted after "until."

Clause 4, line 11: "connecting" has been added between "its" and "bays."

Idem, line 21: "shall" substituted for "will."

ARTICLE III.

Transit of Goods in Bond.

and—

ARTICLE IV.

Transport of Passengers and Goods by Railroad.

Both these questions were dealt with by a Committee of the Joint Commission, and much time and labour was expended on the points involved. Representatives of both Canadian and American railways were summoned to Washington. Various proposals and counter-proposals were drafted, but no draft Agreement was arrived at.

Lord Herschell, who, with Senator Fairbanks, devoted much time to the question, came to the conclusion that no Treaty stipulation could be devised which would be entirely satisfactory, and that the existing state of things* might be allowed to continue without any risk of serious complications.

Lord Herschell's conclusions on this question are recorded in the Memorandum addressed to Senator Fairbanks, of which copies were sent home by Mr. Cartwright after his Lordship's death in his despatch No. 4 of the 3rd March, 1899.

ARTICLE V.

Canals and Lake Michigan.

Article V is no doubt inserted with a view of settling permanently and by Treaty the disputed question relative to the execution of Articles XXVII and XXVIII of the Treaty of Washington of the 8th May, 1871. By the former His Majesty's Government engaged to urge upon the Government of the Dominion to secure to United States' citizens the use of the Welland and other canals in the Dominion, on terms of equality with Canadians, in exchange for similar equality of treatment for British subjects in the United States' canals contiguous to the boundary.

The latter (Article XXVIII) further guarantees the freedom of the navigation of Lake Michigan to British subjects in terms identical with those employed in clause 5 of Article V of the present draft Treaty.

After prolonged discussion of the canal question and the imposition of retaliatory tolls by the United States in St. Mary Falls Canal, as against those imposed by Canada specially on food-stuffs passing through the Welland and St. Lawrence Canals, a *modus vivendi* was arrived at in 1892 which has lasted down to the present time.

This question was not among those which engaged the attention of the Joint Commission, or, at least, was not included specifically in their instructions, or, so far as I can see, in their Reports.

* The contiguity of territory between the United States and the Dominion of Canada led, many years ago, to an Agreement whereby the goods of one country can be shipped across the territory of the other without being subject to its customs law.

ARTICLE VI.

Alien Labour Immigration.

The present Article is identical in terms with the draft Agreement on this subject, which was submitted by the Sub-Committee of the Joint Commission, and sent home by Lord Herschell in his despatch No. 8 of the 10th October, 1898.

It will be seen from that despatch that the draft Agreement was not considered quite satisfactory by the Canadian Commissioners, and that Sir L. Davies was desirous that the word "unrestricted" should be inserted before "passage of persons" in line 3. The United States' Commissioners, however, considered that the proposed wording was sufficiently explicit, and the question was reserved for future discussion.

ARTICLE VII.

Mining Rights.

A draft Article in terms identical with those now employed was prepared by Mr. Kasson in consultation with Lord Herschell, but was not presented to the High Commission because Lord Herschell would not give his definitive consent to the last paragraph until the reciprocity negotiations should be further advanced.

The draft, however, contained an additional clause, forming an antipenultimate provision after clause 6 to the following effect:—

"Should any restrictions not equally applicable to all transfers of such property hereafter be imposed by law in either country upon the transfer of mining property or mining rights from citizens of the United States to the subjects of Her Majesty's Resident in Canada, or from the said subjects of Her Majesty to citizens of the United States, the right of the other country to enact corresponding legislation is hereby reserved." The last phrase of the Article "and belonging to the citizens or subjects of the other country" is also omitted.

The question is referred to in Lord Herschell's despatches No. 2 of the 29th August and No. 7 of the 11th October, 1898.

ARTICLE VIII.

Revision of Agreement of 1817 respecting Naval Vessels on the Great Lakes.

This question was fully discussed by the Joint Commission, and as a result Lord Herschell's American colleagues handed him a draft proposal which was sent home in his despatch No. 14 of the 2nd December, 1898. It was approved by Her Majesty's Government, but the question was not further discussed with the United States' Commissioners.

The present Article conforms to the model then suggested except in the following particulars:—

Clause 3, line 2: "unarmoured" is inserted before "vessels" in Lord Herschell's draft.

Clause 3, line 5: "six" guns of minor calibres are stipulated instead of "four."

In clause 4, line 2: after "revenue cutters" the words "for police and revenue service only" are added in Lord Herschell's draft.

Clause 5, line 5: after "high seas" the words "as herein provided but not otherwise." Line 6, "armed" is expanded in Lord Herschell's draft to "armour plated, armed, equipped." Lines 11–12: instead of "after it has been prepared to receive its guns," Lord Herschell's draft runs "after its completion and before the completion of any other such vessel," and instead of the final phrase "intermediate waterways" the terms of Lord Herschell's draft are "the waterways to the Atlantic seaboard."

The considerations which led to the adoption of the particular form and terms of Agreement submitted by Lord Herschell are explained in his despatch above referred to.

ARTICLE IX.

Conveyance of Prisoners under Custody.

and—

ARTICLE X.

Reciprocity in Wrecking and Salvage Rights.

Both these subjects were dealt with by the High Commission and Articles were drafted by the Sub-Committees. These Articles and the discussions which took place when these were submitted to the Commission are recorded in Lord Herschell's despatch No. 7 of the 30th September.

The present Articles conform textually to those drafted by the Committee, with the following trifling exceptions:—

In the antipenultimate clause of Article X, the phrase "shall restrict" has been changed to "shall be so construed as to restrict," and in the following line "proper" has been inserted before "salvage operations."

The last clause but one of Article X was not accepted by the British members of the Committee, and was only inserted in order that the point involved might be considered by the Plenary Committee.

ARTICLE XI.

Marking Boundary West of Lake Superior.

This subject, as well as the eastern boundary at Passamoquoddy Bay, was discussed by the Joint Commission, and is referred to in Lord Herschell's despatches No. 2 of the 29th August, 1898, and No. 8 of the 10th October, 1898.

With reference to the former, the American maps attached to the Ashburton Treaty were carefully examined after the Commission removed to Washington, and were found to bear out the contentions of the Canadian Government; the present Article was therefore drafted by a Committee composed of Sir R. Cartwright and Mr. Kasson, but was, for some unexplained reason, never submitted to the Plenary Commission.

It is now reproduced verbatim.

It may be noted that the United States' Government have, as reported in Lord Pauncefote's despatch No. 36 of the 4th February, 1901, recently agreed to the proposals of the Canadian Government for a completion of the demarcation of the whole boundary from Lake Superior to the Pacific, with a portion only of which the present Article would deal; and also for the demarcation of the eastern (Passamoquoddy Bay) section of the boundary, with respect to which no decision was arrived at by the Joint Commission. No difficulty was, however, anticipated with regard to it.

These questions would, in the opinion of the United States, be best dealt with by separate Conventions.

This Memorandum is intended merely to note the points of similarity or difference between the present Articles and the results of the discussions of the Joint Commission* where these were reduced into the shape of draft Articles, and to indicate the despatches in which those results were recorded.

A. L.

*Foreign Office,
June 13, 1901.*

* The position in which all the questions discussed by the Commission were left at the last meeting on the 20th February, 1899, is fully shown in Mr. Cartwright's Memoranda of the 25th and 27th March of that year.

No. 9.

Inquiry by the Lord Chancellor.

IS the Tribunal merely to report as to the proper boundary basing themselves upon the Treaties; or, should the Treaties not supply materials for making a sufficient recommendation, are they free to recommend what seems to them a proper boundary, and make any recommendation which may seem proper to them?

Lord Lansdowne, I annex a Memorandum by Lord Pauncefote in reply.

F. H. V.

Memorandum by Lord Pauncefote.

I HAVE no doubt from my conversations with Mr. Hay that the intention of the United States' Government in proposing the reference in its present form is to limit the power of the Arbitrators to deciding the questions distinctly submitted in Article IV. (See preamble stating desire to ascertain "true meaning and application of certain clauses.") If power be given them to depart from the strict interpretation of the Treaty, the Arbitrators will take refuge in a compromise which the Pacific Coast people violently oppose. If the Arbitrators should be equally divided on the strict interpretation of the Treaty, there is nothing to prevent them in their report under the last paragraph of Article VI, from adding any recommendation for an equitable settlement. This would, of course, have only a moral force, but it would facilitate further negotiations for a friendly settlement.

I think Mr. Hay would be much opposed to an express power being given to the Arbitrators to make recommendations and, indeed, such recommendations would derive no additional force from being expressly permitted.

P.

July 15, 1901.

No. 10.*Foreign Office to Colonial Office.*

(Confidential.)

Sir,

Foreign Office, July 23, 1901.

I AM directed by the Marquess of Lansdowne to transmit herewith, for the information of the Secretary of State for the Colonies, and for confidential communication to the Earl of Minto and the Canadian Government, copy of a private letter from His Majesty's Ambassador at Washington, transmitting two draft Treaties which have been communicated unofficially by Mr. Hay,* one providing for the settlement by arbitration of the Alaska boundary dispute, the other containing suggested Articles for the adjustment of the majority of the questions which were discussed by the Joint High Commission, but which were left open at its close in 1899.

With reference to the latter Treaty, I am also to inclose copy of a Memorandum drawn up in this Department, which shows the points of similarity or difference between the proposals now submitted,† and the results of the discussions of the Joint Commission where these were embodied in the shape of draft Articles.

A considerable number of the present Articles are substantially identical with those sent home by Lord Herschell in 1898-99.

With regard to the draft Arbitration Treaty relative to the Alaska boundary, Lord Lansdowne desires to point out that the attitude previously adopted by the United States' Plenipotentiaries at the Joint Commission, and recorded in Mr. Choate's note of the 22nd January, 1900, as to the necessity of excepting from the perils of any arbitration all towns or settlements made by American citizens in good faith under the authority and actual jurisdiction of the Government of the United States, has not been maintained.

In the absence of any such limitation of the scope of the arbitration, his Lordship is disposed to think that the draft Treaty may be recommended to the acceptance of the Dominion Government.

* No. 5.

† No. 8.

In view of the informal manner in which these draft Treaties have been communicated to His Majesty's Government, Lord Lansdowne thinks that it should be impressed on the Canadian Government that they must be treated, for the present at least, as strictly confidential.

I am, &c.
(Signed) F. H. VILLIERS.

No. 11.

Colonial Office to Foreign Office.—(Received July 30.)

(Confidential.)

Sir,

Downing Street, July 29, 1901.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 23rd instant and to transmit to you, for the information of the Marquess of Lansdowne, copies of a telegram and a despatch which have been addressed to the Governor-General of Canada relative to the two draft Treaties which have been unofficially submitted to His Majesty's Government by the Government of the United States of America.

I am, &c.
(Signed) H. BERTRAM COX.

Inclosure 1 in No. 11.

Mr. Chamberlain to Governor-General the Earl of Minto.

(Most Secret.)

(Telegraphic.) P.

Downing Street, July 27, 1901.

TWO draft Treaties have been received privately by Lord Pouncefote from Mr. Hay, one for settlement of Alaska question by arbitration, the other for settlement of majority of other questions discussed by Joint High Commission not, however, including Reciprocity and Atlantic Fisheries.

Alaska Treaty provides for appointment of six impartial jurists of repute, three by each party, who shall consider in settlement of questions referred to them British and United States' Conventions with Russia of 1825 and 1867, particularly Articles III, IV, V, and VII of former; also "take into consideration any action of the several Governments or of their respective representatives, preliminary or subsequent to the conclusion of said Treaties, so far as the same tends to show the intentment of the Parties in respect to the limits of their several territorial jurisdictions under and by virtue of the provisions of said Treaties."

Questions to be answered and decided by Tribunal are:—

1. Referring to Article III of said Treaty of 1825 between Great Britain and Russia, was it intended thereby that the line of demarcation should be traced from the southernmost point of the island, now known as the Prince of Wales Island, along the parallel of 54° 40' north latitude to the passage now commonly known and marked on the maps as the "Portland Channel," and thence along the middle of said channel northward until said northward line shall reach on the mainland of the Continent the 56th degree of north latitude?

If not, how should said line be traced to conform to the provisions of said Treaty?

2. In extending the line of demarcation northward from said point on the parallel of the 56th degree of north latitude, following the crest of the mountains situated parallel to the coast until its intersection with the 141st degree of longitude west of Greenwich, subject to the condition that when such line should exceed the distance of 10 marine leagues from the ocean, then the boundary between the British and the Russian territory should be formed by a line parallel to the sinuosities of the coast and distant therefrom not more than 10 marine leagues, was it the intention and meaning of said Convention of 1825 that there should remain in the exclusive possession of Russia a continuous fringe or strip of coast on the mainland, 10 marine leagues in width, separating the British possessions from the bays, ports, inlets, havens, and waters of the ocean, and extending from the said point on the 56th degree of latitude north to a point where such line

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of demarcation should intersect the 141st degree of longitude west of the meridian of Greenwich?

If not, how should said line of demarcation be traced to conform to the provisions of said Treaty?

When the High Contracting Parties have received the decision of the Arbitrators, they "will at once proceed with negotiations for the final adjustment and demarcation of the said boundary line in conformity with such decision."

From above, which is material substance of draft, it will be seen that it is no longer proposed specifically to exempt all or any existing United States' Settlements from perils of arbitration.

His Majesty's Government are dealing at present time with questions of Clayton-Bulwer Treaty and Nicaragua Canal, and think that they may get better terms in connection with Alaska question if treated at same time.

We consider it of utmost importance to have your Ministers' assent to proceed on basis of draft Treaty, as if boundary question further delayed the advantage that our readiness to settle Canal question gives us may be lost.

It is of utmost necessity that absolute secrecy should be maintained with regard to present proposals.

Despatch follows with copies of the draft Treaty

Inclosure 2 in No. 11.

Mr. Chamberlain to Governor-General the Earl of Minto.

(Secret.)

My Lord,

Downing Street, July 29, 1901.

I HAVE the honour to transmit to you for Confidential communication to your Ministers copies of the draft Treaties stated in my telegram of the 27th instant to have been received privately by Lord Pauncefoot from the United States' Secretary of State, the one providing for the settlement of the Alaska Boundary dispute by arbitration and the other containing suggested articles for the adjustment of the majority of the other questions discussed by the Joint High Commission in 1898-9.

2. It should be understood that both of these drafts are tentative only, and in view of the private and informal manner in which they have been submitted, your Ministers will recognize the necessity of treating them for the present at least as strictly Confidential.

3. The contents of the draft Treaty relative to the Alaska Boundary have been summarized in my telegram above quoted.

4. As regards the draft General Treaty, your Ministers will observe that while it deals with most of the questions referred to the Joint High Commission it makes no suggestion for the settlement of the Reciprocity and Atlantic Fisheries questions.

5. From the despatches of the late Lord Herschell with which your Ministers have been furnished they will be able to compare the provisions of the draft General Treaty with the results of the discussions of the Joint High Commission, but for convenience' sake I inclose a Memorandum which has been prepared at the Foreign Office showing the points of similarity and difference between the proposals now submitted and the draft Articles sent home by Lord Herschell in 1898-1899.

6. A considerable number of the Articles now submitted are substantially identical with those provisionally negotiated by the Joint High Commission. Into the points of difference I need not enter at this stage, except to remark that the draft Articles respecting armament on the Great Lakes in its present form departs on several points of the highest importance from the arrangement previously proposed by the United States Government and approved by His Majesty's Government.

7. I shall be obliged if your Ministers will give their early and careful consideration to these Treaties and if you will report the result to me with the least possible delay.

I have, &c.

(Signed) J. CHAMBERLAIN.

No. 12.

Colonial Office to Foreign Office.—(Received August 12.)

(Confidential.)

Sir,

Downing Street, August 10, 1901.

WITH reference to the Confidential letter from this Department of the 29th ultimo, I am directed by Mr. Secretary Chamberlain to transmit to you, for the information of the Marquess of Lansdowne, a paraphrase of a telegram from the Governor-General of Canada relative to the two draft Treaties which have been unofficially submitted to His Majesty's Government by the Government of the United States of America.

2. Mr. Chamberlain will await the further communication promised in this telegram before expressing any opinion on the subject.

I am, &c.

(Signed) H. BERTRAM COX.

Inclosure in No. 12.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Telegraphic.) P.

[Received August 7, 1901.]

REFERRING to your telegram of the 27th July, Premier is absent in the Gulf of St. Lawrence, but have succeeded in communicating your telegram, and he has replied that he considers United States' proposal most insidious, and suggests that I should send following answer:—

"My Ministers are willing now, as always, to submit boundary question to arbitration of jurists, but they object to proposed number of Arbitrators, and they propose five, two appointed by Great Britain, and two by United States, and one by both countries; would agree to seven, but insist on uneven number in order that Award reached may be certainly final. To such a Tribunal they would refer interpretation of Treaty with all the issues arising from subsequent events. They never can agree to questions proposed by United States, as all our Treaty rights would thereby be surrendered. They believe that if Atlantic fisheries question is removed from Settlement, Behring fisheries and canal navigation should also be removed."

Prime Minister returns Saturday, and will send further answer to despatch coming by mail.

No. 13.

Mr. Lowther to the Marquess of Lansdowne.—(Received August 22.)

(No. 204.)

My Lord,

Newport, R.I., August 10, 1901.

WITH reference to Lord Pauncefoot's despatch No. 148 of the 16th May, regarding the complaints of the Chilkat Indians as to the effect of the Alaskan Boundary *modus vivendi*, I have the honour to transmit to your Lordship herewith copy of a communication from the United States' Government, regarding a protest stated to have been drawn up by the Kluckwan Indians against a tax on canoes levied by the Canadian authorities.

I have forwarded a copy of this communication to the Earl of Minto.

I am, &c.

(Signed) GERARD LOWTHER.

Inclosure in No. 13.

Mr. Adee to Mr. Lowther.

Sir,

Department of State, Washington, August 7, 1901.

REFERRING to the Department's note of 13th May last, relative to the exemption from customs duties of the effects of the Indians living near the provisional boundary-line between Alaska and the Dominion, agreed upon between the United

States and the United Kingdom, I have the honour to inform you that the Secretary of the Treasury, on the 3rd instant, transmitted a letter from Mr. J. O'Connor, of Haines, Alaska, in which he states that on the 8th ultimo, the Kluckwan Indians held a meeting in which they protested against a tax of 4 dol. 25 c., which was being levied by the Canadian customs officials on each canoe of the Indians used on the Chilkat River.

Mr. O'Connor, writing that he was appointed the scribe of the meeting to bring its protest to the attention of this Government, continues, saying that the Indians have always fished from one-half a mile to 12 miles above the present provisional boundary, that they always get their game and wood above the boundary also, that at this time of the year they put up their winter fish, and that this tax upon their canoes is very unwelcome and works serious hardship upon them.

I have, &c.

(Signed) ALVEY A. ADEE,
Acting Secretary.

No. 14.

Colonial Office to Foreign Office.—(Received September 7.)

THE Under-Secretary of State for the Colonies presents his compliments to the Under-Secretary of State for Foreign Affairs, and is directed by the Secretary of State to transmit, for perusal and return, with reference to the letter from the Foreign Department of the 12th April, a copy of a Report by the Canadian Special Commissioner under "The Porcupine District Commission Act, 1900," on the Porcupine-Chilkat districts.

Downing Street, September 6, 1901.

Inclosure in No. 14.

Extracts from Report under "The Porcupine District Commission Act, 1900; by the Honourable Archer Martin, Special Commissioner, with Observations on the Porcupine and Chilkat Districts.

To his Honour the Honourable Sir Henri Gustave Joly de Lotbinière, Lieutenant-Governor of British Columbia:

Sir,

ON the 23rd day of August, A.D. 1900, a Commission issued to me under the provisions of "The Porcupine District Commission Act, 1900," and the Public Inquiries Act, and, pursuant to the requirements of the latter Statute, I have the honour to report as follows:—

I arrived at Skagway, Alaska (on my way out from holding the Assizes at Atlin, British Columbia), on the 8th day of September last, and next day entered upon the duties of the Commission. Owing to the regular steamer, the "Alert," having broken her shaft, we were unable to leave Skagway, on Dyea Inlet, for Haines Mission, on Chilkoot Inlet, Lynn Canal, till 10-30 o'clock on Tuesday morning, the 11th September, which we did in a small 5-ton gasoline launch, the "Mabel," chartered for that purpose. There were with me Mr. J. D. Graham, of Atlin, Government Agent and Gold Commissioner; Mr. Louis J. Seymour, Secretary; Mr. Robert Patrick, clerk; and Provincial Police-constable William Vickers. The Provincial Mineralogist, Mr. W. F. Roberston, then returning from Atlin, took advantage of the opportunity to visit the Porcupine District in his official capacity, and joined our party at Skagway, as did also Mr. Robert Cassidy.

With our camp equipage, supplies, and baggage, we made a top-heavy load for the little steamer, but fortunately the high winds for which the Lynn Canal is notorious were not blowing that day, and we arrived at Haines Mission, 17 miles from Skagway, at 1 o'clock.

The village of Haines Mission, Alaska, is pleasantly situated on a protected bay named Portage Cove, immediately surrounded by gently sloping land. There are a Presbyterian Mission (established in 1881), two or three trading stores, a comfortable

hotel (the Northern), and other buildings, and a modern Chilkoot village, called Dóshu ("Half-way") of about eighty huts. It had been our intention to walk across the peninsula from Haines Mission to the Chilkat Cannery, and thence cross the inlet to Pyramid Harbour, where Mr. Jack Dalton has a ranch, and take our baggage by pack-horse over the Dalton Trail to Porcupine City, but meeting Mr. Dalton at Haines we learned that he could only supply saddle-horses, having lately sold most of his pack-animals. It was consequently decided to give the baggage to Indians to take up the Chilkat River in canoes to Long Bridge on the west bank of the river, whence it could be taken to Porcupine City by Dalton's wagon.

At Haines we found Corporal Todd, of the North-West Mounted Police, and four men, *en route* to Dalton Post (Pleasant Camp). They had been waiting two or three days to get up the river in canoes, but were prevented by the wind blowing down stream.

We started from Haines at about 3 o'clock and walked across the neck of land behind the village over a mile to Chilkat Inlet, which is here a great shallow expanse, largely exposed by the tide, and partly marshy. At its upper end are McClellan Flats, through which the swift and muddy Chilkat River, here 2 miles wide, flows in many channels. Following up the east shore of the inlet for about a mile and a-half, we reached, this side of Rancho Point, the Chilkat village of Yendestaka,* at the head of tide-water, and a little above that point were overtaken by Dalton in a large canoe, in which we embarked and poled up against the swift current for about 2½ miles, till we reached Murphy's Flat on the other side of the stream, and some 6 miles above Pyramid Harbour, where the Dalton Trail begins. Murphy's Flat is a stopping-place on the trail, owned by Dalton. Here we stayed the night. Dalton had got saddle-horses for our party, but the North-West Mounted Police were left behind at Haines, there not being enough horses. We started next morning, Wednesday, the 12th, at 9:35, and arrived at Long Bridge at 3:45, about 15 miles from the flat. The day was fine and the trail surprisingly easy, considering the country. Its highest point was 1,300 feet. Long Bridge is also a stopping-place on the trail, in the midst of a cotton-wood "bush," about a third of a-mile in a direct line from the Chilkat River, and nearly opposite the Chilkat village of Kat-kwalto, on the east bank. Next morning, the 13th, at 9:10, we left Long Bridge, reached the Little Salmon River at 2:45, crossed at 10:40, by a truss bridge, a deep stream, the outlet of Chilkat Lake, and shortly afterwards the Big Salmon (Tisku, or Tsirku) River, and then at 10:50 reached what was known as "Walkerville," now only the fire-swept remains of two or three log houses. Shortly before 12 we reached Camp Sunshine, on the south bank of the Klehini River, and saw one of the iron provisional boundary-posts, planted sideways to the river. On it is written on one side, "P.B. Canada, 1899," and on the other, "P.B.U.S., 1899." Half the post is painted red—on the Canadian side, and the other half blue—United States' side. At this place are two or three log and canvas houses, and one or two miners were at work. Crossing the boundary-line we entered the bed of the river, all of which, by the terms of the Canada-Alaska Boundary Agreement of the 20th October, 1899 (the *modus vivendi*), is provisionally placed within our jurisdiction.

Following up the wide bed of the river and crossing the winding and ever-shifting main channel five times, and making innumerable crossings of branch streams, we reached at 1:35 the mining village of Porcupine "City," situate in Alaskan territory, on the south (right) bank of the river, just above the junction with Porcupine Creek.

Though public notice had been given that the Commission would sit on Saturday, the 15th, the date had to be postponed owing to the non-arrival of the camp equipage, baggage, records, &c. It was expected that they would have been brought up to Porcupine City on the night of the day on which we arrived, but owing to strong contrary winds blowing down the Chilkat River the Indians were unable to get their canoes up the stream to Long Bridge, and it was not till Sunday afternoon, the 16th, that the baggage arrived, and also the Mounted Police. The tents (two) were put up as soon as possible at Commissioner's Camp,‡ on the bed of the Klehini River, in Canadian territory, just across the provisional boundary-line, about three-quarters of a-mile from Porcupine City.

* In the spelling of these Indian names in territory provisionally within the jurisdiction of the United States, I have followed that adopted by the "United States' Coast and Geodetic Survey, Pacific Coast Pilot, Alaska," Part I. Washington, 1883, pp. 194-200.

† This is the proper spelling of the word, as settled by the Board of Geographical Nomenclature.

‡ Site marked by large blazed cotton-wood. (See the File-Book accompanying this Report.)

The Commission was formally opened at 5 P.M. on Monday, the 17th. The Secretary reading the following documents:—

1. Canada-Alaska Boundary Agreement of the 20th October, 1899. (*Modus vivendi*.)

2. Porcupine District Commission Act, 1900.

3. Commission.

Which being done, I made this statement:—

"Seeing that the three documents which have just been read set out the scope and object of this Commission, it is only necessary that I should add a few words for the further guidance of those concerned. It is suggested that all those who have staked claims within the territory which has, by the *modus vivendi*, been temporarily placed under the jurisdiction of Canada, should apply without delay to have their titles to such claims confirmed by this Commission and also recorded under the British Columbia Mining Laws, in order to prevent the possibility of such titles being questioned hereafter, and to preserve to the fullest extent all the rights and privileges which the holders of valid locations are entitled to under the laws of the United States. In said cases the locators are, in the first instance, referred to the British Columbia Government Agent, who is prepared to receive applications, and will, later, and as soon as may be, bring them before the Commission.

"In the case of any dispute between locators under the laws of either nation which it is desired should be adjudicated upon and finally determined by the Commission, application should be promptly made by way of Petition; and would-be petitioners are referred to the Secretary for further information and guidance.

"I hereby declare the Commission opened for the transaction of business, and call upon those who have anything to bring before it to come forward and they shall be heard."

Copies of this statement were posted on the camp notice-board, and at Dalton's trading store in Porcupine City, the central point for that neighbourhood.

I should here state that Captain Rant, the Deputy Mining Recorder at Dalton Post (Pleasant Camp), some 6 miles further up the river on the north (left) bank, joined us at Porcupine, and remained in attendance during the sitting of the Commission.

The Act under which the Commission issued recites that "on account of the uncertainty as to the boundary-line between Canada and the United States of America, disputes have arisen, and are likely to arise, as to the location, ownership, and size of quartz and placer mining claims in the Porcupine District," &c. On inquiring into the matter I found that, so far as could be ascertained, 164 mining locations had been made, and seven water rights taken up under the United States' laws in that part of the disputed territory provisionally placed under the jurisdiction of Canada by the *modus vivendi* (20th October, 1899), a clause whereof provides that "the citizens or subjects of either Power found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy."

Of the said locations, 92 (84 placer and 8 lode) were made *before* the date of the *modus vivendi*; and 72 (71 placer and 1 lode) *afterwards*; and 3 water rights were taken up before, and 4 afterwards.

Considerable publicity was designedly given in Alaskan and other newspapers to the movements of the Commission (as may be seen by reference to the extracts in the accompanying File-Book), in order that all concerned could come before it if they felt so disposed, and on the arrival of the Commission at Porcupine many inquiries were made by the miners and prospectors there as to its scope and objects, and the intention expressed* of availing themselves of its privileges. Shortly after my arrival I received an intimation that representatives of the claim-owners wished to interview me in order to discuss matters which would come before the Commission, but I replied that it would be better to discuss all matters publicly after the Commission began its sittings. I was also asked to state if the claims which were staked in British Columbia under United States' laws *after* the *modus vivendi* would be confirmed by the Commission; but I answered that it would not be proper to give any indication of what course would be followed in such case, and consideration of the matter would be reserved till the question formally came before the Commission for adjudication.

After the Commission opened, for some days no one appeared to make application. Accordingly, on the 20th, I caused notices to be posted at the camp, along the trails, and in Porcupine City, at Dalton's, and elsewhere that the Commission would be closed

* Similar expressions were heard by me at Skagway.

on Wednesday, the 26th September, at 5 P.M., therefore applications should be made without further loss of time. On that day two applications were made and partially considered, and directions given for the proper proceedings to be taken, but the parties concerned not following up the matter no final decision was arrived at.

No further applications being made, and a large number of the population of Porcupine City having "stampeded" down the river to a new strike which had been made on tributaries of the Chilkat River (Bear, Clear, and Buff Creeks), in Canadian territory, about 20 miles above the Chilkat village of Klukwan, I considered it an useless expense to further prolong the sittings of the Commission, so declared it closed on Wednesday, the 26th, pursuant to said notice.

It is desirable to give the main reasons—as reported to me—why the claim-owners did not appear before the Commission, except as stated.

The provisions of the *modus vivendi* appear to have been distasteful to a number of the residents of Porcupine District, as well as others, and the Presidential election coming on, considerable political attention was given to the matter. In July 1900 a Petition was addressed to the President of the United States by certain residents of Porcupine, protesting against the provisional boundary, and at the request of the petitioners the Seattle Chamber of Commerce took up the matter and memorialized the Executive, through the Honourable the Secretary of State, in support of the Petition. The Secretary of State replied by letter of the 3rd August, 1900, to the said Petition, the concluding paragraph of his reply* being as follows:—

" The rights of the United States in the matter of the Treaty boundary are absolutely intact, and their assertion in due time will be earnest and thorough. In the meantime this Government foregoes no part of its rights and power to protect its citizens in the Porcupine Creek region, whether they be temporarily within American or British jurisdiction, in the full enjoyment of all rights and privileges which they had before the *modus* was concluded, and to see that their freedom of access and exit, with their goods, is not unreasonably impeded."

In order to understand the situation it should be borne in mind that the claims located under United States' laws and local rules and regulations generally contained 20'66 acres in area, while under British Columbian laws similar claims (placer) are only 100 feet in length, an area which is as inadequate for such mining purposes as that of the United States' claims is extravagant. The owners of many locations staked, after the *modus vivendi*, under United States' laws, in territory then within Canadian jurisdiction, wished to avoid bringing the question of the validity of their titles before the Commission, and aided by other interested persons, who were animated by motives no more praiseworthy, they succeeded in inducing other locators whose locations were duly made before the *modus vivendi*, and who were at first desirous of having them confirmed by the Commission, to join with them in "boycotting" it. I am credibly informed that the argument which had most weight in bringing about this arrangement was that if the United States' locators resorted to the Commission they would thereby prejudice their titles in case they should later be brought before United States' Courts, when the provisional boundary-line should be moved back, and the district once more placed under United States' jurisdiction, an event which was represented as about to take place in the near future, presumably shortly after the elections. Other arguments were advanced, mainly founded on the paragraph above quoted from the reply of the Secretary of State, placing a construction thereupon which I have no doubt was never contemplated by the Minister. But, however that may be, it is unnecessary to further consider them, for whatever were the reasons which influenced the miners of Porcupine, the result has been seen.

I may say that even before I left Porcupine it was made known to me that some of the claim-owners already doubted the wisdom of the course they had been led to adopt.

It should be stated that the matter of expense did not deter the miners, because all international questions under the *modus vivendi* were referred to me by the Government Agent, and there were no fees in such matters.

I need only add that it seems regrettable that the owners of United States' locations did not avail themselves of the opportunity, so handsomely accorded them by our Government, of having their claims confirmed by the Commission and recorded under the laws of this province, because, from the information I gained as to the manner of making United States' locations prevailing in the Porcupine District, it was especially desirable that the claim-owners should have seized the opportunity of forestalling possible

* Copies of all these documents, which will repay perusal, will be found in the File-Book.

litigation and preserving the peace of the district, particularly in view of the fact that they had before them the object lesson of one murder already committed in Porcupine, arising out of a dispute over a mining claim.*

On Thursday morning, the 27th, at 10 A.M., I left Commissioner's Camp, and, accompanied by Mr. Seymour, went down the Klehini River in a canoe skilfully managed by a Stick Indian, and reached by about 1 o'clock, after several stops, the junction of the Chilkat, where there is an iron post in the bank marking the boundary. Some twenty-five minutes later we arrived, 4 miles lower down, at Klukwan, the principal and ancient village of the Chilkats, formerly notorious, even so far back as Vancouver's time, as being the most powerful and intelligent branch of the great Tlingit family. There are about seventy houses in Klukwan, and it contains much of interest to the ethnologist and the antiquary. Here we had to stop over night owing to a strong wind up the river. We started at 7:30 next morning, and at 8:5 reached Kat-kwalu, a small Chilkat village of some seven or eight houses, where I stopped half-an-hour; passed Murphy's Flat at 11:10, and reached Portage Point (sometimes locally called Jones Point), on Chilkat Inlet, at 12:40, and then walked about 1½ miles to Haines Mission. The distance from Klukwan to Haines Mission, as the crow flies, is about 20 miles, but I am informed that by the twisting and winding channel the distance is nearly 30 miles. All the way down the Chilkat we met many canoes filled with prospectors and others going up the stream, the prospectors being attracted by the report of the "strikes" on the creeks above Klukwan. The steamer "Alert" being late, we did not arrive at Skagway till very early next morning, the 29th, and left for Victoria that same evening at 9:30 by the "City of Seattle," arriving on the 3rd October.

Seeing that a railway is spoken of from Pyramid Harbour, and that a considerable number of prospectors and others are likely to go into the Porcupine and Chilkat country this coming summer, I think it desirable to give in an Appendix to this Report some observations on the district, which may be of use to those intending to visit it, and of interest to others.

There will be found in the accompanying File-Book a collection of public and other documents and records, Alaskan Mining Laws, maps, photographs, extracts from newspapers, &c., containing a large amount of varied information relating to the district.

Submitting, respectfully, the foregoing, I have, &c.

(Signed)

ARCHER MARTIN,

Special Commissioner.

Victoria, December 31, 1900.

No. 15.

Colonial Office to Foreign Office.—(Received September 14.)

(Confidential.)

Sir,

Downing Street, September 14, 1901.

WITH reference to the letter from this Department of the 10th ultimo, respecting the draft Treaties privately submitted by Mr. Hay to Lord Paunceforte for the settlement of the Alaska boundary dispute and other outstanding questions, I am directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Lansdowne, copies of a further telegram and a despatch which have been received from the Governor-General of Canada on the subject.

2. It will be observed from Sir W. Laurier's letter to Lord Minto that the purport of the telegram from this Office of the 27th July has to some extent been misunderstood. Mr. Chamberlain proposes, therefore, if Lord Lansdowne concurs, to telegraph to Lord Minto in the terms of the accompanying draft, with a view to clearing up the situation.

3. Sir J. Anderson is due at Que. on the 16th instant, and Mr. Chamberlain thinks that it would be useful if he could discuss the points arising out of the draft Treaties with the Canadian Government personally. A suggestion to this effect has been accordingly embodied in the draft telegram to Lord Minto.

I am, &c.

(Signed)

C. P. LUCAS.

* Another shooting of a rival claim-owner has since been reported, though this time, happily, without a fatal termination.

Inclosure 1 in No. 15.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Secret and Confidential.)

(Telegraphic.)

[Received August 24, 1901, 8 A.M.]

MY Government respectfully but unequivocally decline their assent to proposed Treaties with United States. Chief objections to first Treaty are that second question proposed to be submitted to Arbitrators is based on a false interpretation of Treaty of 1825, by which quantity of territory undoubtedly belonging to Canada, and extending some 15 miles beyond present provisional frontier would be brought into arbitration, while on the assumption contained in question Dyce and Skagway would be exempt from perils of arbitration. The three American jurists would, they consider, hold that under reference the only point for them to decide is the width of strip which is to separate British possessions from all waters, even territorial waters. In this way United States' Settlements are exempt from arbitration. My responsible advisers recognize urgent advisability of arbitration but object to number of Arbitrators, which would not insure finality, and consider a seventh member necessary; they might, however, be prepared to reconsider the possibility of Court as at present proposed, but to the terms of reference they absolutely object.

With regard to second Treaty, they object to basing a Treaty upon the negotiations of the Joint High Commission, so far as they had proceeded, and point out that though Treaty omits Atlantic fisheries, Section 3, 4, confers advantages long demanded by American fishermen. All the subjects referred to the Commission, except Atlantic fisheries, should in their opinion be left to the Commission itself. Despatch follows by mail.

Inclosure 2 in No. 15.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Secret.)

Sir,

The Citadel, Quebec, August 23, 1901.

OWING to the recent absence of Sir Wilfrid Laurier on a cruise in the Lower St. Lawrence, I was unable at once to obtain any definite reply from him to your Secret cable despatch of the 27th July; I have now, however, the honour to inclose a letter which he has addressed to me, in which he expresses the views of my Ministers on the draft Treaties contained in your Secret despatch of the 20th July.

The Prime Minister's letter deals so fully with the proposals submitted that it needless for me to attempt further to express the opinion of my Government, but I may say that before the receipt of Sir Wilfrid's letter to myself, I had talked the question over with him during an interview at Ottawa, and had pointed out to him the possible advantage to Canada of a consideration of the Alaska frontier question proceeding simultaneously with the Nicaragua Canal negotiations. He replied that there was no indication in either draft Treaty of any lenient consideration of Canadian claims.

My first impression of the United States' proposals affecting the Alaska frontier was that they would throw Dyce and Skagway into arbitration; but if Sir Wilfrid's opinion of the view the United States' Arbitrators would take of the reference to them is correct, the position of the two American Settlements will be no way questioned; and, in reply to a suggestion of mine, that possibly the last clause of the question, viz., "If not, how should said line of demarcation be traced to conform to the positions of said Treaty?" (section 2, Article IV) might give an opening to the Arbitrators to accept the Canadian reading of the Treaty of 1825, he assured me that as such reading was outside the reference, he felt convinced that no American Arbitrator would consent to consider it.

Sir Wilfrid would welcome arbitration, provided he could approve of the composition of the Court, or would accept a *quid pro quo* for the resignation of rights to which he considers Canada entitled by Treaty.

As regards the reassembling of the Washington Commission, as to which he has always been very sanguine, he informed me that he had now given up all hopes of it, and that he had had a most unsatisfactory letter from Senator Fairbanks; but he was pressed for time, and did not give me Senator Fairbanks' opinions.

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Sir Wilfrid, of course, recognizes that the non-assembly of the Commission must bring under consideration the question of separate negotiations between Newfoundland and the United States, whilst, as I have said in former correspondence, he considers any final settlement with Newfoundland in the direction of her entering into Confederation, entirely dependent upon the previous settlement of the French Shore question, and he again alluded to what he believes, from the conversations with M. Kleckowski (French Consul-General at Montreal), to be an inclination of France to negotiate on that question, but told me he would prefer not to repeat his views—referring no doubt to correspondence which had passed some time since between MM. Déléclasse, Kleckowski, and himself, of which I had the honour to inform you at the time.

I have, &c.
(Signed) MINTO.

Inclosure 3 in No. 15.

Sir W. Laurier to Governor-General the Earl of Minto.

(Secret.)

My dear Lord Minto,

Ottawa, August 14, 1901.

ON the receipt of the Secret telegraphic despatch of the 27th July from the Colonial Office, I at once stated to your Excellency the insuperable objections which, in my opinion, existed against the adoption of the terms proposed by the United States for the settlement of the Alaska boundary, and likewise for the adjudication of some of the questions which were referred to the Joint High Commission.

The communication which has since followed of the drafts of the two proposed Treaties has only confirmed the objections which I first expressed to your Excellency, and after full consultation on the whole subject with the Cabinet, it becomes my duty to lay before your Excellency, for communication to Mr. Chamberlain, the views which make it imperative upon us to, respectfully and unequivocally, decline our assent to the proposed Treaties.

The first of these Treaties proposes the creation of a special Court of Arbitration, composed of six eminent jurists, to be selected in equal numbers respectively by each of the Contracting Parties, and the majority of which could make an award. To this Tribunal would be referred not the interpretation of the Treaty of 1825 between Great Britain and Russia, but the determination of certain questions arbitrarily drafted, and on the determination of which would depend the ultimate fixation of the boundary.

Before proceeding any further, I desire, at the earliest moment, to state to your Excellency that the Cabinet have not failed to notice the following very suggestive words of the despatch of the 27th July:—

"His Majesty's Government are dealing at present time with questions of Clayton-Bulwer Treaty and Nicaragua Canal, and think they may get better terms in connection with Alaska question, if treated at the same time."

"We consider it of utmost importance to have your responsible advisers' assent to proceed on basis of draft of Treaty, as if boundary question further delayed, we may lose advantage that our readiness to settle Canal question gives us."

The inference is here plain, that, in agreeing to arbitration on the terms set forth, the United States have made a concession which we should not be slow to adopt, as in the negotiations for the modification of the Clayton-Bulwer Treaty, His Majesty's Government has a vantage ground which may not recur again.

To this last consideration ready assent must be given. The Nicaragua Canal negotiations may offer a propitious occasion for concessions elsewhere on the part of the United States, but the advisers of your Excellency submit with great force, that, in the proposed Treaty, the United States make no concession whatever; that, on the contrary, the terms proposed are absolutely outside the Treaty of 1825, and most unfair to the claims of Canada.

In the first place, with regard to the creation of a Court of Arbitration composed of six jurists, three to be selected by Great Britain and three by the United States, I may observe that this is not by any means a new proposition. His Majesty's Government are aware from the Reports of Lord Herschell, when the Joint High Commission was sitting at Washington, that this same proposition was repeatedly made by the American Commissioners, and as often rejected by the British Commissioners—not that the British Commissioners were opposed to arbitration; on the contrary, from the irreconcilable differences of interpretation of the Treaty which the discussion in the Commission had

developed, they had been forced to the conclusion that arbitration was the only method which ultimately could dispose of the question; but they always insisted that the constitution of the Tribunal, as proposed by the American Commissioners, had not in it the elements which would insure finality of determination. The British Commissioners were then and your Excellency's advisers are yet quite disposed to agree to the creation of a Court composed of six eminent jurists, provided that, in accordance with all precedents, a seventh member be added, to be selected by the two High Contracting Parties thus to secure the certainty of a final award.

The advisers of your Excellency are not indifferent to the result of an arbitration. They entertain a very decided opinion of the strength of their construction of the Treaty; but they conceive that no termination of this vexed question can be reached except by the submission of their interpretation to the risk and peril of a Court so constituted, that, whether winning or losing, they shall place the question beyond the still greater peril of prolonged uncertainty.

Though they would be disposed to go a long way to secure a reference to arbitration, your Excellency's advisers feel that they must adhere to their objection, unless indeed reasons are advanced for the creation of a Court which, I need hardly remark, is at variance with the well settled practice of nations. They would have expected that the United States, in making such an unprecedented proposal, would have defended it by reasons of sufficient strength and importance to justify the exception; but if such reasons exist, your Excellency's advisers are not aware of them, nor do they believe that any can be successfully advanced.

Strong, however, as is their objection to the proposed Court of Arbitration, it is one as to which they would be disposed to hear argument, but they must say emphatically that they are unalterably opposed to the terms of the reference submitted to the Court and the proposed agreement.

The question at issue between Canada and the United States is to determine and to fix the exact limit of the strip of land which, by the Treaty of 1825, was conceded by Great Britain to Russia on the north-western coast of the American continent, south of the 141st degree of longitude.

It is generally conceded that this task is not free from difficulty. The geography and topography of that part of the continent were at that time but imperfectly known, and in some respects the words used in the Treaty to describe the boundary-line ill conform with what we now know of the locality, and are susceptible of differences of interpretation. In some respects, however, the language of the Treaty is clear beyond the possibility of misconstruction.

I have now to call your Excellency's special attention to the fact that the reference proposed would in advance prejudice the case in a manner which is absolutely at variance not only with the spirit but even with the very letter of the Treaty. This is particularly true of the second question, by which the Arbitrators would be called upon to decide.

2. In extending the line of demarcation towards from said point on the parallel of the 56th degree of north latitude, following the crest of the mountains situated parallel to the coast until its intersection with the 141st degree of longitude west of Greenwich, subject to the condition that when such line should exceed the distance of 10 marine leagues from the ocean then the boundary between the British and the Russian territory should be formed by a line parallel to the sinuosities of the coast and distant therefrom not more than 10 marine leagues, was it the intention and meaning of said Convention of 1825 that there should remain in the exclusive possession of Russia a continuous fringe or strip of coast on the mainland not exceeding 10 marine leagues in width, separating the British possessions from the bays, ports, inlets, havens, and waters of the ocean, and extending from the said point on the 56th degree of latitude north to a point where such line of demarcation should intersect the 141st degree of longitude west of the meridian of Greenwich.

One has only to refer to the text of the Treaty to be satisfied that the question so framed cannot result from anything to be found within the four corners of the instrument. The question as framed puts a doubt upon one of the features and dispositions of the Treaty as to which there can exist no uncertainty or ambiguity. Nothing can be shown in the Treaty which would warrant the suggestion that its intention was to give to Russia a strip of land of at least 10 marine leagues from the waters of the ocean. On the contrary the language is clear and unequivocal that the strip of land granted to Russia is to be limited by the crest of the mountains parallel to the coast, and that, if at any point, the mountains recede more than 10 marine leagues from the ocean, then the line is not to follow the crest of the mountains, but the boundary is to be fixed and

placed on the ground as soon as a distance has been reached of 10 leagues from the coast.

The reason of the strong objection here urged against the question proposed for arbitration will be better appreciated, if a moment's consideration be given to the far-reaching effects involved in it. For instance, the crest of the mountains nearest Skagway, at the extremity of the Lynn inlet, is about 15 miles from the same. At that point is a watershed both of the Pacific Ocean and of the Arctic Ocean. The provisional boundary has been placed at that point. By no possible construction of the language of the Treaty can it be pretended that the strip of land granted to Russia may extend beyond that point. Yet, under the proposed Treaty, the Arbitrators would be asked to decide if, in reality, the present provisional boundary should not be removed from the crest of the mountains, some 15 miles further, to the very shores of Lake Bennett. It is not, therefore, to be wondered at, if we insist that to agree to have such a question submitted to arbitration would be a clear abandonment of the rights of Canada.

I am not forgetful of the observation to which our attention is called in the despatch of the Colonial Office, that "it is no longer proposed specifically to exempt all or any existing United States' Settlements from the perils of arbitration."

There is no specific, but there is a very effective exemption. The question to be submitted to the Arbitrators is, whether it was the intention of the Treaty to grant to Russia a strip of coast of 10 marine leagues on the mainland separating the British possessions from the bays, ports, inlets, havens, and waters of the ocean." If this precise language means anything it means that the only point to be determined is whether the strip of the coast was to be 10 marine leagues in width, or if it could be less; but the point from which this strip of land is to be measured is not an issue; it is to be from the extremity of all bays, ports, inlets, havens; in other words, British territory is not to touch water at any point. The contention of Canada that the line should follow the crest of the mountains parallel to the coast, but so as to include bays, ports, inlets, which by the well understood law of nations are territorial waters, would be excluded. The three American jurists would hold that, under the reference, the controlling words of the question made it plain that the only point to decide is as to the width of the strip which is to separate the British possessions from access to all waters, even territorial waters, such as bays, ports, inlets, and havens. In this way, the United States' Settlements are securely exempt from the perils of arbitration.

I would be loath to be hypercritical and to appear to do an injustice to the American diplomats who have drafted the reference. There is an easy way of testing the question, and that is by simply asking the Secretary of State to agree to a modification of the question so as to leave it to the Arbitrators to decide whether the boundary-line should go round all bays, ports, inlets, and havens, or whether it might, also following the crest of the mountains, pass across bays, ports, inlets, and havens.

It is superfluous to add that the American Government will not agree to any such modification.

All those who have confidentially discussed this question with American diplomats are aware of the position which they take on this point. They blandly aver that the American Senate would never agree to any Treaty which would leave to a Court of Arbitration to decide whether their establishments at Skagway and Dyea are actually in American or in British territory.

The American Constitution, as His Majesty's Government are well aware, makes it particularly difficult for foreign nations to negotiate Treaties with the President of the United States. It may be just as well, therefore, to recognize the difficulties of the American Secretary of State.

In presenting this aspect of the case, the advisers of your Excellency desire to approach the subject with perfect candour, and they would earnestly wish that it be discussed by the other side with the same candour.

If practically the American Government tell us that they will not give up Skagway even though it be on British territory, the least that can be said from their point of view is that this is a case for compromise, and that they would be prepared to give to Canada adequate compensation for the surrender of what is, from our standpoint, our undoubted right under the Treaty.

Canada would be prepared to negotiate on those terms, and to accept a compensation in trade concessions, or even in money, though this would be the most undesirable.

I again here revert to the statement of the despatch that "His Majesty's Government are dealing at present time with questions of Clayton-Bulwer Treaty and Nicaragua Canal, and think they may get better terms in connection with Alaska question if treated at the same time."

"We consider it of utmost importance to have your responsible advisers' assent to proceed on basis of draft of Treaty, as, if boundary question further delayed, we may lose advantage that our readiness to settle canal question gives us."

I think I have made it clear that under the proposed mode of arbitration no "better terms" are given to Canada, but that, on the contrary, the construction which Canada places on the Treaty is simply and completely given away—a construction so strong as almost to amount, even in the opinion of the other party to the controversy, to an absolute certainty.

Your Excellency's advisers fully recognize the importance of the best and most friendly relations ever existing between Great Britain, the United States, and Canada. In the view which they have represented above they have certainly shown a disposition to go a long way for this object when they are prepared to compromise upon a question which they have good reason to believe would be decided in their favour by judicial arbitration, but they expect that such a renunciation on their part should take place only on the ordinary condition between nations as well as between individuals, of fair, adequate, and honourable compensation.

With regard to the first question proposed for arbitration, it will be sufficient at present to observe that it is not couched in such a manner as to be entirely satisfactory, nor does it present the point at issue in the clearest and most impartial form; yet your Excellency's advisers believe that it would be possible under it to present their case to the Board of Arbitrators and obtain a determination of the real question as between Canada and the United States, and if all other objections were removed, they would not insist on this one.

There now remains to consider the second proposed Treaty. The despatch says that it is "for the settlement of the majority of the other questions discussed by the Joint High Commission, not, however, including reciprocity and Atlantic fisheries."

When the Joint High Commission having vainly endeavoured to come to an understanding on the Alaska boundary question agreed to refer it to their respective Governments, the American Commissioners very strongly urged that all the other subjects which had already engaged the attention of the Commission should be immediately disposed of.

"They regarded it as unwise to further defer the adjustments so nearly concluded after full consideration. Several subjects were so far advanced as to assure the probability of a settlement. If, then, all differences except one could now be adjusted, would it not be a most commendable advance in neighbourly friendship? Could not our respective Governments be trusted to settle the principal remaining differences by direct negotiations?" (Protocol LXIII.)

The British Commissioners could not agree to those views. They "replied that all such questions should be deferred until the boundary question had been disposed of, either by agreement or reference to arbitration. The manner in which they would be prepared to adjust some of the other important matters under consideration must depend, in their view, upon whether it is possible to arrive at a settlement of all the questions which might at any time occasion acute controversy and even conflict." (Protocol LXIII.)

The reasons here advanced lead your Excellency's advisers to the conclusion that they cannot agree to the second proposed Treaty; but they are of opinion that as soon as the Alaska boundary question has been disposed of in some way, either by arbitration or compromise, the Joint Commission should be called again for the adjustment of the remaining questions.

The proposed Treaty disposes of some of these questions by simply adopting the mature and immature conclusions to which the negotiations of the Commission had brought them. At the same time two of the subjects referred to the Commission are left out—reciprocity and the Atlantic fisheries.

Your Excellency's advisers do not feel any disappointment if the question of commercial reciprocity is altogether left out. Whilst they have not changed their views as to the importance to Canada of the United States' market, they are of opinion that the time is fast approaching when the Canadian market will be just as important to the United States, and that the demand for reciprocity will come from the United States. But they strongly feel that if the most important dispositions of the Treaty of 1817 with regard to the navigation of the St. Lawrence and the Canadian canals are to be altered, negotiations for the settlement of the Atlantic fisheries should proceed *pari passu*, and that if the *status quo* is to be maintained on the one it should also be maintained on the other.

It is, however, to be here observed that whilst the despatch says in so many words that
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the Atlantic fisheries question has not been included in the proposed Treaty, it is a fact that it has been materially interfered with in a manner long demanded by the American Government, viz., the transshipment of fish. Section 4 of Article III of the said proposed Treaty provide:—

"4. Fish caught in the high seas by the citizens or subjects of either of the High Contracting Parties, and destined for transit across the country of the other are entitled to the privileges accorded to other merchandizes in the foregoing paragraph of this Article."

This disposition constitutes a direct repeal of a well-known provision of the Convention of 1817, and is a concession to the American fishermen for which they have long pressed, and which the Canadian Government have always professed their willingness to grant, on the reconsideration of the whole Treaty, which would secure them some equivalent. This very fair and reasonable request has always been refused by the American authorities, and under the proposed Treaty they would carry their point to the sacrifice of Canadian Treaties. It might be shown, though it is now useless so to do, that other Canadian interests are absolutely given away without apparently the thought of any compensation.

The fact is that on basing a Treaty upon the negotiations of the Joint High Commission, so far as they had then proceeded, a gross injustice would be perpetrated towards Canada.

In the language already quoted from the last Protocol of the British Commissioners, "the manner in which they would be prepared to adjust some of the other important matters under consideration must depend in their view upon whether it is possible to arrive at a settlement of all the questions which might at any time occasion acute controversy and even conflict."

The negotiations upon all subjects approached had been conducted by the Canadian Commissioners in a most friendly spirit, and in the hope that the concessions which they were prepared to make on many points would be met by some corresponding concessions from the other side, on other points, notably on the Atlantic fisheries. They had yet practically obtained nothing when the Commission adjourned.

It is obvious from the last Protocol that the negotiations on the several subjects referred to the Commission had not yet reached such a stage of maturity as to be in condition to be embodied in a Treaty.

The conclusion of your Excellency's advisers is:—

1. That all subjects referred to the Commission, with the exception of the Atlantic fisheries should be left to the Commission itself; and

2. That the question of the Alaska boundary be settled by a fair and honourable compromise, or disposed of by a Board of Arbitration so constituted as to insure finality and a fair reference to all sides of the controversy. I need hardly add that upon such a reference all equities which the United States could invoke from possession of what might be found British territory should be provided for, and that it should be in the power of the Court of Arbitration to allow such territory to remain in the possession of the United States, on the condition of proper compensation to Canada.

I have, &c.

(Signed) WILFRID LAURIER.

Inclosure 4 in No. 15.

Draft of Telegram from Mr. Chamberlain to Governor-General the Earl of Minto.

(Secret.)

REFERRING to your Secret despatch of the 23rd August, Premier has misunderstood purport of my telegram of the 27th July. Intention was not to suggest that draft Alaska Treaty should be accepted as it stands, but to ascertain whether draft is such that the improvements which His Majesty's Government may possibly secure if it is discussed in connection with the Canal question would render it acceptable to Canada. There is nothing to prevent your Ministers from proposing amendments in either draft, and such proposals will receive the careful consideration of His Majesty's Government in connection with the Canal negotiations.

Please arrange for personal discussion of drafts between your Ministers and Sir John Anderson during Royal visit.

No. 16.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, September 19, 1901.

I AM directed by the Marquess of Lansdowne to acknowledge the receipt of your letter of the 14th instant, inclosing copies of a telegram and despatch from the Governor-General of Canada, together with the draft of a telegram which Mr. Chamberlain proposes to address to his Excellency relative to the draft Treaties, privately communicated by Mr. Hay to Lord Pauncefoot, for the settlement of the Alaskan Boundary dispute and other outstanding questions.

Lord Lansdowne concurs in Mr. Chamberlain's view that the purport of the telegram sent to Lord Minto on the 27th July has been to some extent misunderstood, and that it is desirable to remove the misunderstanding.

With regard to the terms of the telegram which it is now proposed to address to his Excellency, I am to state that, in his Lordship's opinion, it is essential that the communications to the Dominion Government should not in any way imply that His Majesty's Government associate the settlement of the Alaskan Boundary and other primarily Canadian questions with that of the Inter-oceanic Canal question, or that the negotiations for the three Treaties are interdependent.

I am, therefore, to suggest that, after "discussed," the word "simultaneously" should be substituted for "in connection," and that the words "in connection with the Canal negotiations," at the end of the first paragraph, should be omitted.

I am, &c.

(Signed) F. H. VILLIERS.

No. 17.

Colonial Office to Foreign Office.—(Received October 9.)

(Confidential.)

Sir,

Downing Street, October 8, 1901.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 19th September relative to the draft Treaties recently submitted by Mr. Hay to Lord Pauncefoot, and to request you to inform the Marquess of Lansdowne that the proposed telegram to the Governor-General of Canada was duly dispatched on the same date with the amendments suggested.

2. I am also to inclose copy of a later telegram to the Governor-General on the same subject, which has been sent in consequence of a private communication from Lord Lansdowne to Mr. Chamberlain.

I am, &c.

(Signed) C. P. LUCAS.

Inclosure in No. 17.

Mr. Chamberlain to Governor-General the Earl of Minto.

(Secret.)

(Telegraphic.) P.

Downing Street, October 8, 1901.

MY telegram of the 19th September.

Inform Ministers in confidence that Canal negotiations are proceeding quickly, and that if we are to have any indirect advantage therefrom we ought to be in full possession of their views on draft Treaties at earliest possible date.

No. 18.

Colonial Office to Foreign Office.—(Received October 21.)

(Secret.)

THE Under-Secretary of State for the Colonies presents his compliments to the Under-Secretary of State for Foreign Affairs, and is directed by the Secretary of State to transmit to him, to be laid before the Marquess of Lansdowne, with reference to the letter from this Department of the 8th instant, a telegram from Lord Minto on the subject of the Alaska Boundary.

Downing Street, October 21, 1901.

Inclosure in No. 18.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Telegraphic.) P.

Kingston, Ontario, October 15, 1901.

WITH regard to draft Treaty for settlement of Alaska Boundary, inclosed in your Secret despatch of the 27th July, my Ministers dissent to proposed terms of reference for following reasons:—

Article No. I.—They object to even number of Arbitrators, but would acquiesce in proposed number if at least one of the American Arbitrators shall not be a citizen of United States or a subject of any State directly or indirectly under protection of United States and *vice versa* for Canadian Arbitrators.

They also think that last paragraph should be omitted.

Article No. IV.—My Ministers protest against language used in sub-sections 1 and 2, and are of opinion that the terms of reference should not give prominence to one contention over another, and that questions asked should be somewhat as follows:—

1. What is intended as the point of commencement?
2. What is Portland Channel?
3. What course should the line take from the point of commencement to the entrance of Portland Channel?
4. To what point on the 56th parallel is the line to be drawn from the head of Portland Channel, and what course should it follow between those points?
5. What are mountains referred to as situated parallel to the coast, [which] mountains, when within 10 marine leagues from coast, are declared to form the eastern boundary?
6. In the event of summit of such mountains proving to be in places more than 10 marine leagues from coast, should the width of *lisière* which was to belong to Russia be measured from coast of ocean, strictly so called, along a line perpendicular [*sic*] [? parallel] thereto, or was it the intention or meaning of said Convention that where coast is indented by deep inlets forming part of territorial waters of Russia, the width of *lisière* was to be measured (a) from the line of general direction of coast; or (b) from the line separating the waters of ocean from the territorial waters of Russia; or (c) from the heads of before-mentioned inlets?

Article No. VI.—My Ministers submit that the decision of the Arbitrators upon questions referred to them should be final and binding on all parties, and that scientific experts be then appointed to lay down boundary in compliance with such decision.

They also consider that Treaty should contain a stipulation that reference includes entire boundary at every point. Full particulars are being sent by despatch.

No. 19.

Colonial Office to Foreign Office.—(Received November 22.)

(Secret.)

Sir,

Downing Street, November 22, 1901.

I AM directed by Mr. Secretary Chamberlain to transmit to you, to be laid before the Marquess of Lansdowne, paraphrase of a telegram from the Governor-General of Canada relative to a reported intention on the part of the United States' miners in the Yukon territory to attempt the overthrow of the local Government.

2. Mr. Chamberlain would suggest, for Lord Lansdowne's consideration, that the

substance of this message should be telegraphed without delay to His Majesty's Ambassador at Washington, with an instruction to his Excellency to communicate it confidentially to the United States' Government, and to request that the United States' representatives in the Yukon territory may be directed to use their influence to prevent an occurrence so greatly to be deprecated in the interests of both nations.

I am, &c.

(Signed) H. BERTRAM COX.

Inclosure in No. 19.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Very Secret and Confidential.)

(Telegraphic.) P.

[Received November 20, 1901.]

I AM told by my Prime Minister that the rumours of a contemplated rising among the United States' miners, in the Yukon territory, intended to overthrow the local Government, are not without foundation. The United States' miners largely outnumber British. Police garrison at Dawson is being strengthened. I inform you at once in order that possible complications with United States may be avoided.

No. 20.

The Marquess of Lansdowne to Lord Pauncefoot.

(No. 81.)

(Telegraphic.) P.

Foreign Office, November 22, 1901.

A SECRET telegram from the Governor-General of Canada, dated 20th instant, has been repeated to you.

As much of the information in it as you think fit may be communicated to the United States' Government. Your Excellency should ask whether they have any local Agents whom they could utilize to exercise a moderating influence on the American miners, and point out that it is in the interests of both nations to prevent such an occurrence as appears to be contemplated.

No. 21.

Lord Pauncefoot to the Marquess of Lansdowne.—(Received November 23.)

(No. 36.)

(Telegraphic.) P.

Washington, November 23, 1901.

DISTURBANCES in Yukon district.

With reference to your Lordship's telegram No. 81 of yesterday, Mr. Hay, in a conversation which I had with him this morning, said that the United States' Government are fully aware of the importance of using their best endeavours to prevent any such movement from taking place. They have, however, received no information of either an official or private character on the subject.

Mr. Hay believes that the report has been purposely exaggerated by the newspapers, but has promised that telegraphic instructions shall be sent without delay to the Governor of Alaska and the Commander of the United States' forces to exercise the utmost vigilance.

He told me that his Government have no Agents on the spot, and said he thought that it would be a difficult matter to send any there, especially in view of the distance of the locality in question from the United States' border.

No. 22.

Foreign Office to Colonial Office.

(Confidential.)

Sir,

Foreign Office, November 25, 1901.

I AM directed by the Marquess of Lansdowne to transmit to you, to be laid before the Secretary of State for the Colonies, copies of telegrams which, in accordance with the suggestion contained in your letter of the 22nd instant, were addressed to His Majesty's Ambassador at Washington on the subject of the reported intention of the United States' miners in the Yukon Territory to attempt to overthrow the Local Government.*

A copy of the reply received from Lord Pouncefote is also inclosed.†

I am, &c.

(Signed) FRANCIS BERTIE.

No. 23.

Lord Pouncefote to the Marquess of Lansdowne.—(Received December 6.)

(No. 284.)

My Lord,

Washington, November 23, 1901.

WITH reference to Mr. Lowther's despatch No. 204, of the 10th August last, relative to the protest alleged by the United States' Government to have been raised by the Kluckwan Indians against a tax levied on their canoes by the Canadian authorities, of which the Governor-General of Canada was also informed, I have the honour to transmit to your Lordship herewith a copy of an approved Minute of the Privy Council of the Dominion, which I have received from his Excellency for communication to the United States' Government.

It appears from the Minute that instructions have been given to the Canadian Customs officers on the Chilcat River to admit free, as a temporary measure, until the 5th January, 1903, the canoes in use by the Indians, with their peltries and other usual effects, and to forward to the Customs Department refund claims for any duties paid by them on such canoes and effects since the 5th January last. In his despatch, Lord Minto calls attention to the temporary nature of this suspension of the collection of duties which is not to be regarded as a matter of right.

I have forwarded a copy of the Minute in an official note to the United States' Government.

I have, &c.

(Signed) PAUNCEFOTE.

Inclosure in No. 23.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 11th November, 1901.

THE Committee of the Privy Council have had under consideration a despatch, hereto attached, dated the 10th August, 1901, from His Majesty's Chargé d'Affaires in the United States, transmitting a communication from the United States' Government regarding a protest stated to have been drawn up by the Kluckwan Indians against a tax on canoes levied by the Canadian authorities.

The Minister of Customs, to whom the despatch and inclosure were referred, reports that special instructions have been forwarded from the Department of Customs at Ottawa to the Canadian Customs officers on the Chilcat River, directing the free admission temporarily, along the Chilcat River route, until the 5th January, 1903, of the canoes in use by Indians and peltries, and other of their usual effects (not being goods in bales or other packages unusual among Indians engaged in hunting or fishing), when proceeding along the Chilcat River route and also directing that refund claims be forwarded to the Customs Department for duties (if any) paid by the Indians on such canoes and effects since the 5th January, 1901, the collection of duties being waived temporarily as to the Indians, but not as a matter of right.

* To Lord Pouncefote, No. 80 (repeats telegram sent in No. 19), and No. 20.

† No. 21.

The Minister states that he is informed, however, by Mr. E. S. Busby, Acting Inspector of Canadian Customs on the Yukon frontier, that the Canadian Customs officer at Wells, British Columbia, had collected Customs duties upon some five Indian canoes during the present year, but that such duties were shortly afterwards refunded to the Indians, and that no duties have been collected on canoes of the Kluckwan Indians since the early part of July, 1901.

The Committee advise that your Excellency be moved to forward a certified copy of this Minute to His Majesty's Ambassador to the United States for the information of the United States' Government.

All which is respectfully submitted for his Excellency's approval.

No. 24.

Lord Pauncefote to the Marquess of Lansdowne.—(Received December 6.)

(No. 285.)

My Lord,

Washington, November 26, 1901.

WITH reference to my despatch No. 148 of the 16th May last, in which I had the honour to transmit to your Lordship copies of correspondence with the United States' Government relative to the complaints of the Chilkat Indians, in which the Acting Secretary of State of the United States informed me that any arrangement to exempt from duty, goods otherwise dutiable, is precluded by the Tariff Laws of the United States, and expressed the opinion that the proposed arrangement is unnecessary to secure to the Indians the rights which they have hitherto enjoyed, I have the honour to transmit herewith a copy of an approved Minute of the Privy Council of Canada, which I have received from the Earl of Minto, embodying a Report from the Canadian Minister of the Interior, in which he contends that the right of crossing and recrossing the boundary-line without customs restrictions is not one of the "rights and privileges" conferred upon the Indians by the *modus vivendi* of October 1899.

This Minute embodies the reply of the Canadian Government to the note from the United States' Government of the 13th May, inclosed in my despatch to your Lordship above referred to, which I communicated at the same time to the Earl of Minto.

There does not appear to be any reason why this Minute should not be communicated to the United States' Government as desired, but as the matter is not very pressing and as it relates to the construction of the *modus vivendi*, I have thought it desirable to submit it in the first instance to your Lordship, and I should be grateful if I might be favoured with telegraphic instructions on the subject.

I have, &c.

(Signed) PAUNCEFOTE.

Inclosure in No. 24.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by the Governor-General on the 11th November, 1901.

THE Committee of the Privy Council have had under consideration a despatch, hereto attached, dated the 16th May, 1901, from His Majesty's Ambassador to the United States, transmitting a copy of a note he has received from the Acting Secretary of State of the United States, having reference to the arrangement proposed by the Government of Canada, whereby certain relaxations of Customs Regulations should be made on behalf of the Indians dwelling near the provisional boundary-line between Alaska and British Columbia, and conveying the views of the Secretary of the Treasury in relation thereto.

The Minister of the Interior, to whom the said despatch was referred, submits, in reply to the expression of opinion of the Secretary of the Treasury, that the proposed arrangement is unnecessary to secure to the Chilkat Indians the continuance of the rights heretofore enjoyed by them, the following remarks: The Secretary of the Treasury makes special reference to the hunting and fishing in the valley where these Indians live (the Chilkat Valley), which he considers they enjoy as a "right," secured to them by the terms of the *modus vivendi*. The Chilkat Indians in their Petition, besides the hunting

and fishing, asked for freedom of trade with the interior. This last the Government of Canada could not grant, and they considered it unsafe, as regards the prevention of the importation of dutiable goods, to allow the Indians, on excursions ostensibly for the purpose of hunting and fishing, to cross the line without inspection of their goods by the officers of the Customs. They, however, offered to waive their right to collect duties upon the canoes and the usual effects of the Indians temporarily, but not as a matter of right.

It appears, however, that the Secretary of the Treasury questions the right of the Government of Canada to collect these duties, and holds that the crossing and recrossing of the line without customs restrictions is a right of the Indians, under the provision of the *modus vivendi* "that the subjects and citizens of either Power, found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy."

In the first place, it is clear, from the *modus vivendi* itself, that the "rights and privileges" therein referred to did not, in any case, include the right of crossing the customs line. For the *modus vivendi* further provides that "persons proceeding to or from Porcupine Creek" shall be permitted, in following the trail, to cross and recross the line without payment of duty. The specific provision that duties shall not be charged in the special case of these persons indicates the intention of the *modus vivendi* that they shall be chargeable in general. That the United States' Customs Laws are operative upon the provisional boundary-line is, indeed, expressly stated by the Secretary of the Treasury. It is to be noted that even the persons proceeding to and from Porcupine Creek are, under the *modus vivendi*, to be "subject to such reasonable Regulations for the protection of the revenue as the Government of Canada may prescribe."

Secondly, as these Indians have their homes on the United States' side of the provisional line, it cannot be said that they were "found by this arrangement within the temporary jurisdiction" of Canada. It is not clear, therefore, in what way the provision for the non-diminution of rights and privileges applies to them.

It is further said, in this connection, that the Chilkat Valley "has been regarded as territory of the United States." If this statement, which, however, is only true, in any sense, of the part of the valley within 30 marine miles from the sea, implies that the title of the United States to the Chilkat Valley is paramount to that of Canada, it is to be observed that this valley, from the 30-mile line to the sea, is part of the territory in dispute between the United States and Great Britain. Failing to effect a settlement of the permanent boundary, the two Powers entered into the Provisional Boundary Agreement of 1899. Under the circumstances, the rights of the two Powers on their respective sides of the provisional line must be considered equal.

The Committee advise that his Excellency be moved to forward a certified copy of this Minute to His Majesty's Ambassador to the United States, as representing the views of the Government of Canada upon the matter.

All which is respectfully submitted for his Excellency's approval.

(Signed)

JOHN J. MCGEE,

Clerk of the Privy Council.

No. 25.

Colonial Office to Foreign Office.—(Received December 9.)

(Confidential.)

Sir,

Downing Street, December 7, 1901.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 25th November, inclosing copy of a telegraphic correspondence with His Majesty's Ambassador at Washington relative to the reported intention of the United States' miners in the Yukon Territory to attempt the overthrow of the Local Government.

2. Lord Pauncefoot's telegram of the 23rd ultimo was repeated to Lord Minto on the 26th ultimo.

3. A copy of a despatch which has since been received from Lord Minto is inclosed, for the information of the Marquess of Lansdowne.

I am, &c.

(Signed)

H. BERTRAM COX.

Inclosure in No. 25.

Governor-General the Earl of Minto to Mr. Chamberlain.

(Secret.)

Sir,

Government House, Ottawa, November 23, 1901.

ON the 20th instant I had the honour to send you a cypher cable, of which the following is a paraphrase:—

"Am informed by Premier that rumours of a contemplated rising among American miners in the Yukon Territory have some foundation. British miners are largely outnumbered by American miners. Garrison of North-West Mounted Police at Dawson is being reinforced. In view of avoiding possible complications with United States, I inform you of above at once."

Owing to an interview I had that day with Sir Wilfrid, it appeared to me advisable to inform you of the rumours as to recent events in the Yukon Territory, as to which the Prime Minister assured me there was cause for serious anxiety, he being evidently apprehensive of possible complications with the United States.

I have, however, since the conversation above alluded to, consulted Lieutenant-Colonel White, the Comptroller of the North-West Mounted Police, who is fully cognizant of all particulars connected with the reported plot, and he tells me that, though no doubt there is evidence of an organization to overthrow the local authority at Dawson, it appears to him to have originated amongst a few very low-class mining adventurers, who could hardly be expected to carry much influence even with the rough, unsettled element which always frequents mining camps. The report that arms have been clandestinely passed into the Yukon Territory he does not believe, though it must be remembered that the population of such outlying districts are generally armed.

The strength of the North-West Mounted Police in the Yukon Territory is at present 240, which will be immediately increased to 300. They have in Dawson and at Whitehorse a few small guns and a Maxim at each place. The force is well supplied with ammunition, and Dawson is in direct telegraphic communication with Ottawa.

The United States' officer in command of troops at Skagway I am personally acquainted with, and he is very well spoken of.

From the information supplied me by Colonel White, I am glad to state that there appears to me little cause for apprehension.

I have, &c.

(Signed) MINTO.

No. 26.

Lord Pauncefoot to the Marquess of Lansdowne.—(Received December 9.)

(No. 40.)

(Telegraphic.) P.

Washington, December 9, 1901.

WITH reference to my telegram No. 36 of the 23rd ultimo, I have the honour to inform your Lordship that the Attorney-General and Secretary of War have received intelligence relative to the reported disturbances in Yukon territory, from which it appears that the rumours of a rising in the Klondyke region are grossly exaggerated, and are not regarded seriously in Alaska. Vigilance, will, however, continue to be exercised by the United States' authorities.

No. 27.

Foreign Office to Colonial Office.

Sir,

Foreign Office, December 11, 1901.

WITH reference to the letter from this Office of the 3rd June last, relating to the complaints of the Chilkat Indians, I am directed by the Marquess of Lansdowne to transmit to you the accompanying copy of a despatch from His Majesty's Ambassador at Washington,* forwarding a copy of an approved minute of the Privy

Council of Canada, in which it is contended that the right of crossing and recrossing the boundary without Customs restrictions is not one of the "rights and privileges" conferred upon the Indians by the *modus vivendi* of October, 1899. Lord Pauncefote asks whether he should communicate this minute to the United States' Government, in accordance with the wish expressed by the Canadian Government.

As Lord Pauncefote has asked that he may receive instructions on the subject by telegraph, I am to request that Lord Lansdowne may be favoured as soon as possible with Mr. Secretary Chamberlain's opinion as to the answer to be made to his Excellency.

I am, &c.
(Signed) FRANCIS BERTIE.

No. 28.

Foreign Office to Colonial Office.

Sir, *Foreign Office, December 14, 1901.*
WITH reference to the letter from this Office of the 23rd August last relative to the protest of the Kluckwan Indians against a tax on canoes levied by the Canadian authorities, I am directed by the Marquess of Lansdowne to transmit to you the accompanying copy of a despatch from His Majesty's Ambassador at Washington,* forwarding a copy of an approved Minute of the Privy Council of the Dominion, from which it appears that instructions have been given to the Canadian Customs officers on the Chilcat River to admit free, as a temporary measure, until the 5th January, 1903, the canoes in use by the Indians, with their peltries and usual effects, when proceeding by the Chilcat River route, and to forward to the Customs Department refund claims for any duties paid by them since the 5th January last. Lord Pauncefote has, in accordance with the wishes of the Canadian Government, communicated a copy of this Minute to the United States' Government.

Lord Lansdowne proposes, if Mr. Secretary Chamberlain concurs, to approve his Excellency's action.

I am, &c.
(Signed) FRANCIS BERTIE.

No. 29.

Colonial Office to Foreign Office.—(Received December 17.)

Sir, *Downing Street, December 17, 1901.*
I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 11th instant relative to the complaints of the Chilcat Indians, and, in reply, I am to suggest, for the consideration of the Marquess of Lansdowne, that Lord Pauncefote should be instructed to communicate to the United States' Government the Minute of the Canadian Privy Council, a copy of which was inclosed in his despatch No. 285 of the 26th November.

I am, &c.
(Signed) H. BERTRAM COX.

No. 30.

The Marquess of Lansdowne to Lord Pauncefote.

(No. 85.)

(Telegraphic.) P.

Foreign Office, December 17, 1901.

REFERRING to your despatch No. 285 of the 26th ultimo:

Your Excellency may communicate to United States' Government Minute of Canadian Privy Council.

No. 31.

Colonial Office to Foreign Office.—(Received December 24.)

Sir,

Downing Street, December 24, 1901.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your letter of the 14th instant, and to state, for the information of the Marquess of Lansdowne, that he concurs in the proposal to approve the action of Lord Pauncefote in communicating to the United States' Government a copy of the Minute of the Canadian Privy Council, which was inclosed in his despatch No. 284 of the 23rd November, respecting the temporary remission of duties on the canoes and effects of Indians using the Chilcat River route.

I am, &c.

(Signed) H. BERTRAM COX.

No. 32.

The Marquess of Lansdowne to Lord Pauncefote.

(No. 247.)

My Lord,

Foreign Office, December 27, 1901.

I HAVE communicated to the Secretary of State for the Colonies your Excellency's despatch No. 284 of the 23rd ultimo relative to the protest reported by the United States' Government to have been raised by the Kluckwan Indians against a tax levied on their canoes by the Canadian authorities. Your Excellency reported that you had forwarded to the United States' Government a copy of a Minute of the Canadian Privy Council on the subject, which you had received from the Governor-General of the Dominion.

I have to inform your Excellency that your action in the matter is approved.

I am, &c.

(Signed) LANSDOWNE.

No. 33.

Lord Pauncefote to the Marquess of Lansdowne.—(Received December 30.)

(No. 308.)

My Lord,

Washington, December 19, 1901.

WITH reference to my telegram No. 40 of the 9th instant relative to the rumoured disturbances in the Klondyke region, I have the honour to transmit to your Lordship herewith copies of two personal notes which I have received from Mr. Hay on the subject.

As your Lordship will observe, the reports contained in these notes fully confirm the impression already prevalent here, that the disturbances in question have been much exaggerated.

I have, &c.

(Signed) PAUNCEFOTE.

Inclosure 1 in No. 33.

Mr. Hay to Lord Pauncefote.

My dear Lord Pauncefote,

*Department of State,**Washington, December 16, 1901.*

IN continuation of the information which I have heretofore given you in regard to Alaska, the Attorney-General informs me that the United States' Attorney at Eagle City, Alaska, has telegraphed him :—

"Heard rumours of rebellion in Klondyke through press. There is no foundation in fact for the report. We are in daily communication with Dawson."

And that the United States' Attorney at Juneau has also telegraphed:—
"Best information, official and otherwise, obtainable established fact of conspiracy hatched by dissatisfied American and Canadian miners, egged on by adventurers and irresponsible persons, to create disturbance in the Klondyke country. Timely exposure prevented the movement from passing beyond the embryonic stage. Some bitterness and ill-feeling exists among citizens of United States in Alaska against Canadian Mining Laws and Regulations, but as a whole Americans are not disaffected. There seems to be no question of entire collapse of incipient rebellion. Will keep you advised of further developments if any. Will enforce neutrality laws if occasion arises."

Yours faithfully,
(Signed) JOHN HAY.

Inclosure 2 in No. 33.

Mr. Hay to Lord Pauncefote.

Dear Lord Pauncefote,

Department of State,
Washington, December 18, 1901.

THE Governor of Alaska telegraphs to the Secretary of the Interior under date of the 16th December, that the newspaper sensation in regard to conspiracy is wholly untrue, and that good order prevails in the territory.

Yours faithfully,
(Signed) JOHN HAY.

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